

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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5 COURTNEY LINDE, et al., : 04 CV 02799 (BMC)
6 Plaintiffs, : And all related cases
7 : 04 CV 05449 (Litle)
8 : 04 CV 05564 (Almog)
9 : 04 CV 00365 (Coulter)
10 - against-- : 05 CV 00388 (Afrial-Kurtzer)
11 : 05 CV 03183 (Bennett)
12 : 05 CV 03768 (Roth)
13 : 06 CV 01623 (Weiss)
14 ARAB BANK, PLC, :
15 : United States Courthouse
16 Defendant. : Brooklyn, New York
17 :
18 : September 15, 2014
19 : 9:30 o'clock p.m.
20
21 - - - - - X

22 TRANSCRIPT OF JURY TRIAL
23 BEFORE THE HONORABLE BRIAN M. COGAN
24 UNITED STATES DISTRICT JUDGE, and a jury.
25

26 APPEARANCES:

27 For the Linde and OSEN, LLC
28 Coulter Plaintiffs: By: GARY M. OSEN, ESQ.
29
30 TURNER & ASSOCIATES, PLLC
31 By: CLYDE T. TURNER, ESQ.
32
33 For the Litle, SAYLES WERBNER
34 Bennett and Roth By: MARK S. WERBNER, ESQ.
35 Plaintiffs:
36 For the Almog STONE, BONNER & ROCCO, LLP
37 Plaintiffs: By: JAMES P. BONNER, ESQ.
38
39 MOTLEY RICE, LLC
40 By: MICHAEL E. ELSNER, ESQ.
41 JODI FLOWERS, ESQ.

1 A P P E A R A N C E S (Continued)

2 For the Defendant:

DLA PIPER US, LLP
By: SHAND STEPHENS, ESQ.
ANTHONY COLES, ESQ.
BRETT INGERMAN, ESQ.
MARGARET CIVETTA, ESQ.

5 Court Reporter:

Gene Rudolph
225 Cadman Plaza East
Brooklyn, New York 11201
(718) 613-2538

8 Proceedings recorded by mechanical stenography, transcript
9 produced by CAT.

10 (The following occurred in the absence of the jury.)

11

12 * * * * *

13

14 THE COURT: Good morning.

15 Let's have the jury, please.

16 (Jury present.)

17 THE COURT: All right. Be seated, please.

18 Good morning, ladies and gentlemen.

19 Proceed with defendant's next witness.

20 MR. COLES: Thank you, Your Honor.

21 The defendants call Mazen Abu Hamdan to the stand.

22 THE CLERK: Please raise your right hand.

23 (The witness is duly sworn/affirmed by Clerk of
24 Court.)

25 THE CLERK: Please state and spell your name for the

1 reporter.

2 THE WITNESS: Mazen Nazem Diab Abu Hamdan.

3 THE CLERK: Spell your name, please.

4 THE WITNESS: M A Z E N, A B U, H A M D A N.

5 THE CLERK: You may be seated.

6 THE WITNESS: Thank you.

7 THE COURT: You may inquire.

8 MR COLES: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. COLES:

11 Q Good morning, Mr. Mazen.

12 How are you doing?

13 A Good morning. I'm fine, sir. Thank you.

14 Q Okay. I notice when you introduced yourself you gave
15 four names to the court reporter.

16 A Well, that's common in the Middle East.

17 Q Why is that?

18 A You know, in the Middle East we have big families and you
19 will find that there is more than one person who would have
20 the same, the name of Muhammad or Ahmed or Hamdan or even
21 Saeed or Yusuf or Osama. So in order to make sure that this
22 guy is the right person you are talking to, he has to give his
23 names -- his four names. Name, father's name, grandfather's
24 name and family's name.

25 Q All right. That's what's used for official

1 identification purposes as well, right?

2 A Yes. All passports and IDs have four names.

3 Q You seem to be doing fine in English. I just want you to
4 know that we do have interpreters over here.

5 A Okay.

6 Q If during the course of the examination you want
7 interpretation from Arabic, I think that's fine.

8 A Fine.

9 Q What languages do you speak, sir?

10 A I speak English and Arabic.

11 Q When did you work for Arab Bank?

12 A July 15, 2002.

13 Q Until when?

14 A Until April 15, 2012.

15 Q What was your job at Arab Bank between 2002 and 2012?

16 A I was the regional manager in Palestine.

17 Q Is that the top man in the Palestinian territories?

18 A Yes. It is the senior officer of the company.

19 Q What do you do for a living now, sir?

20 A I represent Western companies interested in investing in
21 Palestine, generating electricity by solar power.

22 Q Through the sun?

23 A Yes. Trying to get, yes, the use of the sun rays.

24 Q Good.

25 Where did you grow up, sir?

1 A I grew up in Jordan.

2 Q Okay. I don't know that we've had a witness from -- who
3 grew up in Jordan. We placed a map up on the screen in front
4 of you.

5 One of the benefits of this trial is that we have
6 actually been able to have a geography lesson for people. If
7 you could maybe come down and orient the jury as to where you
8 grew up?

9 A Sure.

10 Q And how it relates to the Palestinian territories where
11 you worked for Arab Bank?

12 A Yes.

13 Q When you are done with that, we will take it down.

14 (Witness steps down.)

15 A This is the Mediterranean Sea. This Israel. This is --
16 the yellow. The green is the -- sorry. The blue is the
17 Mediterranean Sea, the yellow is Israel proper, and the green
18 is the Palestinian territories, which is under occupation.

19 Q You are from Amman, sir?

20 A I am from -- I was born in Amman and I grew up in Amman.
21 This is Jordan.

22 Q When you worked for Arab Bank, where did you work?

23 A I worked in Ramallah and I was living in Jerusalem.

24 Q About how far is Ramallah from Jerusalem?

25 A Seven miles, ten, eleven kilometers.

1 Q Thank you very much for that. I think you can go back.
2 With the Court's permission, you can go back to the witness
3 chair.

4 A Okay.

5 (Witness resumes.)

6 Q Is a Amman a large city?

7 A I would say so. We have over three million people living
8 in Amman, yes, today.

9 Q Tell us a little bit about your family and introduce
10 yourself to the jury.

11 A Okay. I'm married. I have three children, two boys and
12 a girl.

13 My eldest son graduated from the Kent University in
14 England, masters degree in economics and finance. He worked
15 for three years in Abu Dhabi, which is in the Gulf area of the
16 United Arab Emirates for an American company, for Price
17 Waterhouse Coopers, one of the top four audit firms in the
18 world. He was working in their strategy division.

19 My daughter studied at the Lebanese American
20 University in Beirut. She graduated with a BSC degree in
21 communication art. She is working today in Qatar. That's
22 another country in the Middle East, very close to the United
23 Arab Emirates and Saudi Arabia.

24 My father was a contractor and before, in 1967, he
25 built a big number of schools and government offices in the

1 West Bank and in Jordan.

2 Q Of what countries are you a citizen, Mr. Mazen?

3 A I have the dual nationality of Jordan and the United
4 Kingdom.

5 Q How did it come about that someone from Jordan became a
6 UK citizen as well?

7 A Well, I was offered the job in London in 19 -- late 1991
8 and I lived there for about eight years. So I was entitled to
9 apply for the nationality. I applied and it was granted.

10 Q Did you go to school in Amman?

11 A Yes. I went to the Bishop School in Amman, which is
12 owned by the Anglican Church of England.

13 Q Did you go to college in Amman as well?

14 A Yes.

15 I went to the University of Jordan and graduated
16 with BSC degree in economics and finance, bachelor of science.

17 Q You have a lot of experience I think in banking and
18 business before joining Arab Bank, right?

19 A Twenty-seven years and then ten years with Arab Bank.

20 Q What was your first job after you graduated from college?

21 A After graduation in 1975, I worked for American company,
22 insurance company. The name is American Life Insurance
23 Company. I was in charge of the finance department for about
24 three years.

25 Q After working three years for the American Life Insurance

1 Company, what did you do next?

2 A I was offered a job with Citibank, the well-known
3 American bank.

4 Q Okay. Where did you work for Citibank?

5 A I started at the training center in Greece for about six,
6 seven months. Then afterward -- after that I was given a job
7 in Sonaa, Yemen, for less than three years, and then I was
8 moved to Doha, Qatar.

9 Q Okay.

10 A Both countries are in the Gulf area.

11 Q Okay. Did you have a senior position at Citibank?

12 A Yes.

13 When I left the bank I was the senior credit officer
14 in the Doha branch.

15 Q Is that the number two-person in the branch?

16 A It is.

17 Q After you spent three years at Citibank, did you have
18 some more banking experience?

19 A Yes.

20 Q Where did you work next?

21 A I worked for a local bank in Amman, Jordan by the name of
22 Arab Jordan Investment Bank, for about a year.

23 Q Okay.

24 A My position was there the manager of treasury and
25 operations.

1 Q Okay. Was that also a senior position at this Jordan
2 Investment Bank?

3 A It was, yes.

4 Q Okay. After working at the Jordan Investment Bank, did
5 you go into business?

6 A No.

7 After that, few friends in Jordan wanted to start a
8 new bank in Amman. So they applied to the Central Bank and
9 they were granted a license to have a financial company by the
10 name of Jordan Investment and Finance Bank, and I was the
11 first one to join that bank as the assistant general manager.

12 Q Okay. Were you one of the founders of that bank as well?

13 A Yes; I invested some money in that bank.

14 Q For how long did you stay working for the Jordan
15 Investment Bank?

16 A For three years.

17 Q What did you do after that?

18 A After that I started my own money management company in
19 Amman. That was in January 1986.

20 Q How long did you work in that company?

21 A For a little more than three years.

22 Q Okay. Did there come a time where you were recruited to
23 work in Switzerland?

24 A Yes.

25 First of all, I was given a temporary assignment

1 with the liquidator of the Swiss Bank whose owners were of
2 Lebanese and Karachi origins. Most of their clients were from
3 the Middle East and the Gulf area. So they offered me that
4 temporary assignment to help them in locating the borrowers
5 and help in the liquidation of the bank. That was six-month
6 assignment only.

7 Q That was in 1988 or 1989?

8 A '89, it was in February '89.

9 Q Okay. Then while you were in Switzerland doing that job
10 as liquidator, were you recruited to work for a bank in
11 Switzerland?

12 A I got an offer from Bank Indo-Suez, which is today the
13 Credit Agricole.

14 Q Is that a big global bank?

15 A It's one of the -- it's the biggest bank in France and
16 it's one of the bigger banks in the world.

17 Q Okay. Were you working in Switzerland for Suez or Credit
18 Agricole?

19 A I was working for Bank Indo-Suez for about two years in
20 their private banking division.

21 Q Okay. Did you have a senior position at Indo-Suez?

22 A Yes; I was the vice president of the private banking
23 division.

24 Q Okay. After those two years at Indo-Suez, did another
25 bank try and recruit you to come work for them in England?

1 A Another Swiss bank by the name of BSI, head offices are
2 in Lugano, Switzerland, and the position was in London to head
3 their Middle Eastern department, commercial and trade.

4 Q Did you in fact go to London and work for them?

5 A I moved to London with the family and I worked for that
6 bank for over a year.

7 Q Okay. Did you have a senior position, we will call it
8 BSI bank in London as well?

9 A Yes; I was the senior vice president in charge of the
10 Middle Eastern department.

11 Q After working for BSI, did you go back into business?

12 A Yes.

13 I joined another money management and investment
14 company by the name of Foltus. The name was changed later to
15 First European Investment Company.

16 Q You worked for them until about 1997?

17 A Until 1997.

18 Q Okay. Then what happened in 1997?

19 A Well, in 1997, even before 1997, there was the also --
20 the Oslo Agreement between the Palestinians and the Israelis
21 which was followed by the Arab Peace Agreement between Jordan
22 and Israel and a friend of mine was the general manager of
23 Cairo Amman Bank in Jordan, started talking to me that okay,
24 we need you back here in Palestine to help us build the
25 banking sector in the territories, in Palestine.

1 I took my time. I wanted to see that things are
2 going smoothly and then, finally, in July, they invited me to
3 go and visit the territory. I went there. They took me to
4 Israel, they took me to Haifa and down to Tel Aviv. We had
5 good food there and people were nice. So I liked the
6 atmosphere and I signed the agreement and I started working
7 for them.

8 Q So you spent ten years in London and Geneva and decided
9 to come back to Ramallah?

10 A Yes.

11 Q It is a big change?

12 A It is a big change.

13 But if you recall, I was born in this part of the
14 world and I wanted to come back home.

15 Q After all the wining and dining, were you offered a job
16 at Cairo Amman Bank?

17 A Yes, of course.

18 Q What job were you offered?

19 A That was the regional manager for the country, which is
20 the Palestinian territories.

21 Q Can you briefly describe Cairo Amman Bank? I don't know
22 if we have talked about it before.

23 A Cairo Amman Bank is a Jordanian bank and they have
24 branches in the West Bank and Gaza. When I joined them they
25 had 19 branches spread between the West Bank and Gaza.

1 Q So --

2 A They have more branches in Jordan, of course.

3 Q So you worked at Cairo Amman bank from 1997 until when?

4 A Until 2002.

5 Q Then what happened in 2002?

6 A I was offered the job at Arab Bank.

7 Q So at that time when you were offered the job at Arab
8 Bank, if I did this correctly, you had worked and had
9 experience as a senior person at six banks, you had started a
10 bank, and you had also worked successfully at two companies?

11 A That's correct. It was five banks plus Arab Bank, number
12 six.

13 Q Okay. Who recruited you to Arab Bank and how did you
14 learn about what responsibilities there would be?

15 A I was recommended to the general manager by Mr. Shukry
16 Bishara. He was the regional manager between 1994 and 2001 of
17 the Arab Bank in the Palestinian territories. So he
18 recommended me to the general manager, Mr. Abbud Shuman. I
19 went for an interview and I was offered the job.

20 Q How did you know Mr. Bishara?

21 A When I came to Jordan -- to Palestine, I got introduced
22 to the bank managers in Palestine and Shukry was one -- was
23 the general manager of the Arab Bank there and just happened
24 that we were both living in Jerusalem. Our children went to
25 the same school, which is the French Lycée in West Jerusalem.

1 Q July 2002, when you started at Arab Bank, that was in the
2 middle of the second intifada, wasn't it?

3 A That's right.

4 Q That must have been a very challenging time to change
5 positions.

6 A It was.

7 Q What was happening to Arab Bank's business and profits at
8 that time?

9 A Oh, my God. First of all, we had many, many problems.
10 Certain branches were not open -- were not able to open for
11 many, many days. All the branches were closed for almost two
12 weeks at a certain time in the year 2002. Expenses were going
13 up and income was coming down. Businesses went into
14 bankruptcy. Customers defaulted on their loans and we had to
15 take provisions. So profits went down by more than
16 50 percent.

17 Q Was that a result of the second intifada and the
18 circumstances of the second intifada?

19 A It was the result of the violence and circumstances
20 during the second intifada, yes.

21 Q You mentioned Mr. Bishara recruited you to work at Arab
22 Bank but he was not the regional manager in Palestinian
23 immediately before you, was he?

24 A No.

25 Q Who was?

1 A Immediately before was Doctor Salam Fayyad. I think he
2 started with the bank sometime in November 2001 and then in
3 May he was asked to take the minister of finance in the
4 Palestinian territories. So he left the bank to become
5 finance minister in the territories.

6 Q When you joined Arab Bank in July of 2002, how many
7 people worked under you in the Palestinian territories?

8 A Roughly around six hundred.

9 Q Could you let us know in summary form what your key
10 responsibilities were as the regional manager at Arab Bank in
11 the Palestinian territories?

12 A I was supposed to develop the business for the bank,
13 rebuild the budget for the coming year and get it approved by
14 the head office, make sure that all my assistants are running
15 their departments efficiently and in accordance with the
16 policies and procedures, and we had an audit department which
17 was supposed to be auditing all the banks's transactions and
18 they were reporting to me and to head office.

19 Q Okay. I believe we've had testimony that there were 14
20 branches or so of Arab Bank in the 2002 timeframe?

21 A In 2002, yes. I think we had 14 branches and maybe six
22 or seven cash offices.

23 Q Roughly, how many customers Arab Bank have in the West
24 Bank, in Gaza, when you took the position in July 2002?

25 A It was over 200,000 people, 200,000 customers.

1 Q Can you tell from those two hundred thousand customers
2 about how many transactions, individual transactions, would be
3 generated by the branches in the Palestinian territories at
4 that time?

5 A Daily, weakly, monthly, annually?

6 Q How about daily?

7 A I would say, 50,000.

8 Q And per year?

9 A Ten million.

10 Q How much?

11 A Ten million.

12 Q Ten million transactions per year?

13 A At least.

14 Q Okay. Now, when you became regional manager of Arab
15 Bank, did you also have contacts with other banking
16 organizations in the area, in Palestine?

17 A Can you repeat the question, please?

18 Q Yes.

19 When you became the regional manager, did you also
20 have contact with other banks in the area, through
21 associations or industry groups?

22 A Yes, of course, local banks and Arab banks.

23 I was the chairman of the board of the Society of
24 Banks in Palestine, which involves all the Palestinian -- all
25 the banks operating within Palestine and at the same time I

1 was a board member on the Union of Arab Bank representing the
2 Palestinian banks in that union.

3 Q While you were the regional manager in Palestine for Arab
4 Bank, did you serve on -- well, maybe I will ask a broader
5 question.

6 Was Arab Bank making other investments in the
7 Palestinian territories at that time that you were involved in
8 as a board member?

9 A Oh, yes, of course.

10 The bank has invested in different public holding
11 companies in the West Bank, starting from Padico, which is the
12 Palestine Investment and Finance Company. That was a company
13 that was found with an initial capital of \$250 million and it
14 was a holding company which was supposed to set up companies
15 for the different sectors in order to build the economy,
16 create jobs for the Palestinians.

17 (Continued on next page.)

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Hamdan - direct - Coles

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1 (CONTINUING)

2 Q Okay. And did Arab Bank make an investment in Padico?

3 A Yes, we did.

4 Q Okay.

5 A We invested in Padico and we invested in the sister
6 and -- the sister company that they formed later for the
7 different sector.

8 Q Was one of those company a company called Pal Tel?

9 A Yes.

10 Q And what was Pal Tel?

11 A Pal Tel is the telephone operator in the West Bank in
12 Gaza. And it was the only telephone operator then.

13 Q Okay. And were you on the Board of Pal Tel as well?

14 A Yes.

15 Q Okay. And Arab Bank had made an investment in them?

16 A Yes.

17 Q Okay. From the point of view of these organizations in
18 which Arab Bank was investing in the time that you came back
19 to Palestine, can you describe generally what effect the
20 second intifada had on these investments and the goals of
21 these investments?

22 A Most of those company were not making any money. In
23 fact, they were losing money and they had difficult time
24 moving their employee, moving their goods and services in and
25 out of the territory.

Hamdan - direct - Coles

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1 Q And was that a result of the second intifada?

2 A Yes, it was.

3 Q Now, did the Palestinian Monetary Authority have to
4 approve your appointment as the regional manager of Arab Bank?

5 MR. WERNER: Your Honor, I'll object.

6 A Yes.

7 THE COURT: I'll allow that question.

8 Q Okay. What other position in the bank did the
9 Palestinian -- the PMA have to approve in addition to yours?

10 A All the --

11 MR. WERNER: Your Honor, excuse me.

12 THE COURT: Hang on a second.

13 Sustained.

14 Q You mentioned earlier in your answers, in your answer
15 that one of your responsibilities as senior man was to oversee
16 the internal audit department at Arab Bank?

17 A That's right.

18 Q Can you explain what that was?

19 A Well, we had a department that has a department head and
20 the employee in that department was supposed to check on all
21 the transactions that were done in the bank and prepare report
22 on their audit practice.

23 Q Okay. And did you also have to relate to the bank's
24 external auditors?

25 A Yes, of course.

Hamdan - direct - Coles

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1 Q Okay. And who were they?

2 A Our external auditor were Deloitte & Touche, which is one
3 of the top four audit firms in the world.

4 Q Okay. And in your job how did you have to relate to
5 Deloitte & Touche?

6 A Of course the external auditor would have to talk to the
7 top man in the country and they do their, their audit and of
8 course, they would visit the branch at least twice a year;
9 once in the first half of the year and second time second half
10 of the year. And then, they would prepare their report to the
11 shareholders of the bank.

12 Q I want to move to a new subject for one second, if that's
13 okay?

14 A Sure.

15 Q The Saudi Committee.

16 When did you first generally hear of an organization
17 called the Saudi Committee?

18 A The committee as a committee itself? Or the fund --

19 Q No, just the Saudi Committee as a committee itself.

20 A I would say in the '90s.

21 Q And what did you hear about it at that time?

22 A That it was a humanitarian committee that was formed by
23 the Saudi Arabian Government and it was headed by His
24 Excellency Prince Nayef who was the minister of Interior in
25 Saudi Arabia.

Hamdan - direct - Coles

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1 Q And what did you learn about the type of projects that
2 the Saudi Committee was doing?

3 MR. WERBNER: Your Honor, I'm going to object to
4 hearsay.

5 THE COURT: Sustained.

6 Q Did you first hear of the Saudi Committee when you were
7 employed at Cairo Amman Bank or was it before then?

8 A I can't recall.

9 Q Okay. Did there come a time when you learned of a Saudi
10 program to provide aid during the second intifada?

11 A Yes.

12 Q Okay. Was that after you began to work at Arab Bank?

13 A I can't recall exactly, but it must have been either
14 after or maybe before.

15 Q Okay. In other words, the Saudi Committee was providing
16 aid before you arrived at Arab Bank?

17 A I think so.

18 Q Okay. Good. And when you joined Arab Bank. Did you
19 learn that Arab Bank was acting as a correspondent bank for
20 Arab National Bank, which was the Saudi Committee's bank?

21 A Yes.

22 MR. WERBNER: Objection.

23 THE COURT: Also hearsay?

24 MR. WERBNER: Yes, Your Honor.

25 THE COURT: Overruled.

Hamdan - direct - Coles

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1 He answered yes, go ahead.

2 MR. COLES: Okay.

3 Q I'm sorry, did you answer the question, Mr. Mazen?

4 A I said yes.

5 Q Can you explain what that means, that Arab Bank was
6 acting as a correspondent bank for Arab National Bank?

7 A Well, normally that's a custom and practice where he need
8 a correspondent bank to do business with different countries.
9 There were -- we had a correspondent bank in New York and we
10 had a correspondent bank in London and we had a correspondent
11 bank in Riyadh Saudi Arabia.

12 Q Arab National Bank, which was the Saudi Committee's bank,
13 did they have branches in Palestine?

14 A Who?

15 Q Arab National Bank?

16 A No.

17 Q Okay. And is that why you served as their correspondent
18 bank, because you had branches there?

19 A That's right.

20 Q Okay. And who was your correspondent bank or your
21 customer in that relationship?

22 A Our correspondent bank in the Arab National Bank in
23 Riyadh.

24 Q Was the Saudi Committee your customer?

25 A No.

Hamdan - direct - Coles

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1 Q Just Arab National Bank?

2 A I think their accounts were with the Saudi Monetary
3 Authority.

4 Q All right?

5 A But maybe they had relationship definitely with the Arab
6 National Bank.

7 Q But your customer, your correspondent was Arab National
8 Bank?

9 A That's right.

10 Q And not the Saudi Committee?

11 A That's right.

12 Q And after you joined Arab Bank in 2002, did you become
13 involved in a Saudi Committee program to provide unemployment
14 benefits?

15 MR. WERNER: Your Honor, I'm going to object;
16 leading and without predicate of personal knowledge.

17 THE COURT: The first part is overruled.

18 The second part is overruled, too.

19 You may answer.

20 Q Thank you, Your Honor.

21 After you joined -- I'll just rephrase the question
22 to make it easier.

23 After you joined Arab Bank in 2002, did there come a
24 time where you became involved in a Saudi Committee program to
25 provide unemployment benefits to families in Palestine?

Side-Bar

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1 MR. WERBNER: Excuse me, can we approach the bench,
2 Your Honor?

3 THE COURT: Sure.

4 (Side-bar conference held on the record out of the
5 hearing of the jury.)

6

7 (Side-bar.)

8 MR. WERBNER: They're kicking my chair, so I guess
9 they have something to say.

10 THE COURT: Go ahead.

11 MR. OSEN: Your Honor, there's no record evidence of
12 any kind as to whether they paid unemployment benefits.
13 There's no way for us to judge whether they did or not because
14 the records haven't been produced.

15 THE COURT: Well, I don't know if you're there yet,
16 Mr. Coles, but you may be and you certainly are very close to
17 being in the preclusion order.

18 If you are going to talk about anything having to do
19 with the bank's relationship with payments put through by Arab
20 National Bank for the Saudi Committee, you haven't produced
21 the documents. So, you are squarely within the preclusion
22 order.

23 MR. COLES: We actually -- well, we have produced
24 all the beneficiaries.

25 In other words, the plaintiffs, there were some

Side-Bar

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1 30,000 or so beneficiaries.

2 THE COURT: But you didn't produce all the
3 documents.

4 As Judge Gershon said quote, the production lacks
5 account statements; unredacted Know Your Customer material
6 that the bank is required to collect under international and
7 local anti-terrorism laws; reports created by terrorism
8 detection software that the bank says it uses and that it
9 acknowledges is required to use to comply with anti-terrorism
10 laws; internal correspondence regarding Bank work for the
11 Saudi Committee; unredacted minutes of bank meetings at which
12 the Saudi Committee was asked discussed; or any other document
13 that might confirm an accountholder or payment beneficiary's
14 identity or circumstantially evidence the Bank's knowledge of
15 identity, close quote.

16 Now, you can't cherry-pick the facts you want when
17 you haven't given them all the facts that are there. What you
18 are asking him would find proof or refutation in these
19 documents that Judge Gershon listed.

20 MR. COLES: Actually, I don't think so. I'll tell
21 you why.

22 THE COURT: We don't know.

23 MR. COLES: Well, no, because the only thing I'm
24 asking him is really at the summary level, at the general
25 level that there was a program.

Side-Bar

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1 THE COURT: But how did they probe below the summary
2 general level to find out what was really going on when you've
3 withheld the documents?

4 MR. STEPHENS: Your Honor, they have 176,000
5 Saudi Committee documents.

6 THE COURT: What if there are 800,000 more that you
7 didn't produce?

8 MR. COLES: It's a complete production, Your Honor.

9 MR. STEPHENS: It's a complete production.

10 THE COURT: What about these documents that
11 Judge Gershon said you didn't produce?

12 MR. COLES: She's talking about specific account
13 records. We've produced all the transfers from the
14 Saudi Committee. All 176,000.

15 THE COURT: I understand, but that does not explain
16 fully the bank's knowledge of what the Saudi Committee was
17 doing. The withheld documents would.

18 MR. OSEN: Your Honor, our point just for the record
19 is that if they want to ask Mr. Hamdan about a specific letter
20 or document that was produced and his understanding of that
21 letter, it's one thing.

22 THE COURT: Right.

23 MR. OSEN: But to characterize the entire program or
24 to say unemployment benefits where there's not one scintilla
25 of evidence in the record that Mr. Hamdan knows or doesn't

Hamdan - direct - Coles

2840

1 know that these are unemployed beneficiaries or that they
2 were, in fact, unemployed is exactly what Judge Gershon
3 addressed.

4 THE COURT: All right. I am sustaining the
5 objection.

6 MR. COLES: Okay.

7 (Side-bar end.)

8

9 (In open court.)

10 MR. WERBNER: Your Honor, could the Court strike the
11 last answer and instruct the jury to disregard it.

12 THE COURT: I don't think there was a last answer.
13 I did sustain the objection to the question.

14 MR. WERBNER: Thank you.

15 BY MR. COLES:

16 Q Mr. Mazen, plaintiff's had an expert earlier in this case
17 by the name of Arias Spitzen, who spoke about a Saudi program
18 called the Needy Families Program?

19 A Yes.

20 Q Are you familiar with that program?

21 A Yes.

22 Q Can you describe what that program is?

23 A That program was supposed to be sending around \$130 per
24 family for -- I don't know what number was, but it was about
25 15,000 families in the West Bank in Gaza.

Hamdan - direct - Coles

2841

1 Q Okay.

2 A It was supposed to be, it was one-year program we were
3 told and we were supposed to be receiving on monthly basis
4 roughly \$130 for each and every family.

5 Q Okay. And how many families did this go to, if you know?

6 A About 15,000. I can't remember. Over 15,000.

7 Q Okay. That's a lot of families to send money to. Did
8 Arab Bank have a procedure in place to handle transfers like
9 that?

10 A Transfer, yes. That was a large number of people who
11 were affected by the intifada, of course. And the Arab Bank
12 did have other instance where they had to conduct such
13 transactions and one of those was the payment of the PA, which
14 is the Palestinian Authorities employee salary on a monthly
15 basis.

16 Q And why was that a little bit like the Needy Family
17 Program that you mentioned?

18 A It's because and you have a certain amount that that --
19 that's to be distributed on a number of accounts. And we were
20 paying over 40,000 employee for the PA their salary every
21 month.

22 Q And other than the PA, were there other organizations
23 that you made large transfers on a regular basis?

24 A Yeah, many. Many corporate customers and international
25 institutions.

Hamdan - direct - Coles

2842

1 Q In your view, is that a fairly routine thing for the bank
2 to do?

3 A I believe it was.

4 MR. COLES: Can I see DX 194.

5 MR. WERBNER: I don't believe this is in evidence.

6 MR. COLES: To the witness only, I'm sorry.

7 THE COURT: It is.

8 MR. COLES: This is just being shown to the witness
9 only.

10 Q Mr. Mazen, I'm showing you a document that we've marked
11 as DX 194. It's dated the 26th of April, 2003.

12 Do you see it in front of you?

13 A Yes.

14 Q Okay. Could we get the witness a hardcopy so it doesn't
15 get cut off on the screen.

16 (Pause in the proceedings.)

17 Q Do you recognize this letter, Mr. Mazen?

18 A Yes.

19 Q Okay.

20 A That's a letter from the --

21 MR. WERBNER: Excuse me, I am going to object to it.

22 THE COURT: He can generally identify, just say what
23 it is.

24 A It's a letter from the Hebron branch in the West Bank
25 addressed to the finance department, the regional management.

Side-Bar

2843

1 Q Okay. And this is sent to you as well?

2 A It's addressed to me, yes.

3 MR. COLES: And Your Honor, I would like to move DX
4 194 into evidence.

5 MR. WERNER: Objection.

6 THE COURT: All right, let's have a side-bar.

7 (Side-bar conference held on the record out of the
8 hearing of the jury.)

9

10 (Side-bar.)

11 THE COURT: What is the objection?

12 MR. WERNER: It shows that only one of many hit the
13 blacklist and it gives the account number, but we haven't been
14 produced any of these records to test that.

15 MR. COLES: I have, from Judge Gershon in the
16 foreign law order, Arab Bank will still be entitled to
17 emphasize its substantial Saudi Committee disclosures
18 including the bank's own internal documentation to persuade a
19 jury that it was not aware that the beneficiaries of its
20 financial services were terrorists.

21 Arab Bank can rely on these disclosures and related
22 testimony to rebut plaintiff's assertion that Arab Bank
23 intended to support the Saudi Committee's alleged efforts to
24 finance terrorists.

25 Plus, this is actually just consistent with what

Side-Bar

2844

1 Mr. Osen said. If I could find the document, he said, I could
2 explore the document with the witness and so, I'm simply doing
3 what he told you I could do in the last side-bar.

4 THE COURT: Mr. Osen, why isn't this exempted by
5 Judge Gershon's 44.1 order and your representation at side-bar
6 a minute ago?

7 MR. OSEN: Happy to, Your Honor.

8 First of all, it doesn't address the 44.1 issue.
9 The question of what blacklist they had, which blacklist they
10 applied, what law they applied in doing this, is all
11 A) unknown to the plaintiff and B) deals with PMA and other
12 local law. So, that is the 44.1 issue.

13 The second part of it is that this a reference
14 internally to running particular names on the blacklist for
15 the Needy Families Program only. So, in terms of the
16 prejudicial effect of it, it can give the impression moreover,
17 that whatever blacklist they were using under whatever legal
18 system they were applying applied more broadly than the
19 document itself.

20 MR. COLES: That's exactly what Judge Gershon in the
21 foreign law order said we could do.

22 THE COURT: No.

23 MR. COLES: At the end of that order she has an
24 exclusion that says that we could talk about our
25 Saudi Committee disclosures, which were substantial. And she

Side-Bar

2845

1 says we can extrapolate from those as well.

2 MR. OSEN: Well, we don't have an objection to them
3 saying that they produced 180,000 transfers or, as the witness
4 already testified, 15,000 customers, et cetera, et cetera.
5 That gives them the framework of what the program and the
6 transactions were.

7 But to talk about their subjective state of mind as
8 to those things, unless it's the state of mind of the witness
9 in writing a letter or receiving a letter in which they are
10 talking about something that we can actually probe, it's
11 obviously outside the -- or within the preclusion order.

12 MR. WERNER: If I can add one other thing.

13 He said that it was addressed to him. He didn't say
14 that he received it and I think he's going say that he didn't.

15 THE COURT: If that was your only objection, we
16 could fix that one more easily than these.

17 I view Judge Gershon's 44.1 order as allowing
18 general testimony about compliance consistent with her other
19 orders on that subject.

20 I don't see how you can create the impression from
21 this document that there was compliance with the blacklist
22 when you have not produced the documents and the internal
23 memoranda discussing it that might well show that.

24 MR. COLES: But I totally understand that, and the
25 line I think that Judge Gershon and she was quoting from the

Side-Bar

2846

1 Second Circuit on this allows me to draw is, did you have
2 blacklists in place?

3 I cannot say was this account the Abu Hijja
4 transfer, I'm not asking whether or not that transfer was
5 filtered against the blacklist or whether or not a transfer to
6 somebody else filtered against the blacklist. I'm just using
7 this letter in the way that Mr. Osen said that we could in
8 order to talk about the fact that they had blacklists in place
9 generally and I'm going stop there.

10 THE COURT: I think you have it backwards.

11 I think this Exhibit is a specific application of
12 the blacklist and you may talk generally that there was a
13 blacklist in place and you used it. So I am going to sustain
14 the objection to this Exhibit.

15 MR. OSEN: May I make just one last point,
16 Your Honor, just so the Court is clear.

17 I believe the interrogatory responses from the
18 defendant is that Hamas itself was not on the PA blacklist
19 until 2004. So, again, in terms of confusion and prejudice to
20 the jury, this is part of the reason Judge Gershon excluded
21 foreign law and references to foreign law and so forth.

22 THE COURT: All right.

23 MR. COLES: So -- all right. So, you're not going
24 to allow me to introduce this?

25 THE COURT: I am not. The objection to the

Hamdan - direct - Coles

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1 admission of the document is sustained.

2 (Side-bar end.)

3

4 (In open court.)

5 BY MR. COLES:

6 Q Mr. Mazen, did Arab Bank have any role or any involvement
7 in selecting the beneficiaries who would receive
8 Saudi Committee payments?

9 A No.

10 Q Do you know what criteria the Saudi Committee used to
11 select beneficiaries?

12 A No idea.

13 Q Did Arab Bank have any involvement in setting the
14 criteria that the Saudi Committee would use to select
15 beneficiaries?

16 A No.

17 Q Now, in learning about the Saudi Committee, in addition
18 to the Needy Families Program, did you also learn that the
19 Saudi Committee was providing other programs during the second
20 intifada?

21 A They must have.

22 Q Okay.

23 A Yes, they must have. They had programs in place before
24 the intifada.

25 Q Okay. Focusing on the intifada time frame?

Hamdan - direct - Coles

2848

1 A Yes.

2 Q Were you aware of other programs that the Saudi Committee
3 had during the second intifada other than the Needy Families
4 Program that we talked about?

5 A Yes.

6 Q Okay. And what were some of those programs?

7 A They were sending money to the families of prisoners.
8 Families of people who died during the intifada and who needed
9 funding assist -- financial assistance.

10 Q Did you view though as humanitarian programs?

11 A Yes.

12 MR. WERNER: Your Honor, I'm going to object as
13 leading.

14 THE COURT: Sustained.

15 Q Did you see anything wrong with providing aid to families
16 of people who were imprisoned or injured or died during the
17 intifada?

18 MR. WERNER: Objection.

19 THE COURT: Sustained.

20 Q Mr. Mazen, where were you living and working?

21 You were living and working in Ramallah during the
22 second intifada?

23 A I was living in Jerusalem and working in Ramallah.

24 Q Okay. And you were commuting between Jerusalem and
25 Ramallah?

Hamdan - direct - Coles

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1 A On a daily basis, yes.

2 Q Okay. Please, describe for us what it was like for you
3 personally to live in Jerusalem and work in Ramallah during
4 the second intifada.

5 A Well, it was a terrible situation. It was a war zone.

6 There were checkpoints on the roads. There were
7 closures of the main cities. There were teenagers throwing
8 stones on the soldiers, and the soldiers using rubber
9 bullets, fighting back on those teenagers. Many times, we
10 were not allowed to enter Ramallah through the main entrance
11 on the main roads. Luckily, I had a four-wheel drive and we
12 had to go through the valley and the mountains to get to the
13 office.

14 At the certain time, we, most of our employee from
15 Jerusalem, when they come to Ramallah, so we had to rent the
16 second floor of the Hebron branch, which was in Jerusalem and
17 equipment, bring all the equipment to facilitate the employees
18 coming to the office under the general management, employees
19 to come to the office and serve the branches from there.

20 Q And how did the second intifada affect you and your
21 family?

22 MR. WERBNER: Your Honor, I'm going object; 403.

23 THE COURT: I'll allow it.

24 MR. COLES: Thank you.

25 A After the second intifada struck, I decided that it was

Hamdan - direct - Coles

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1 dangerous for my family to stay in the West Bank in Jerusalem
2 and so I sent them back to Amman, Jordan and I was commuting
3 whenever I can, I can go back home see my family.

4

5 (Continued on following page.)

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Mazen - Cross - Werbner

2851

1 BY MR. COLES:

2 Q Now, you mentioned, when you came to Arab Bank in 2002,
3 the profits and performance of Arab Bank was suffering because
4 of the second Intifada?

5 A That's correct.

6 Q Did that continue to be the case during the 2002, 2004
7 period?

8 A Yes.

9 Q What happened to Arab Bank's operations and profits
10 during that timeframe?

11 A I was, as I mentioned earlier, profits went down,
12 expenses were increasing, we were paying salaries for all the
13 employees, we are taking provisions on bad debts, and so
14 profits went down.

15 MR. COLES: Mr. Mazen, thank you very much for your
16 testimony this morning. I appreciate it.

17 THE COURT: Cross examination.

18 MR. WERBNER: May I, Your Honor, move this? It is
19 getting heavier and heavier.

20 CROSS EXAMINATION BY MR. WERBNER:

21 Q Mr. Hamdan, in your testimony, you mentioned payments of
22 about \$132 a month to certain groups of people from this Saudi
23 Committee, correct?

24 A I did, I did.

25 Q And you mentioned that there was another program making

Mazen - Cross - Werbner

2852

1 payments to people who had died, correct?

2 A That's right.

3 Q That's actually called payments to martyrs in the
4 documents of Arab Bank, correct?

5 A Sometimes, yes.

6 Q And, the payments to the martyrs, was \$5,300, whereas the
7 payments to these other people was only \$132, correct?

8 A Let me --

9 MR. COLES: May I have a sidebar.

10 THE COURT: Yes, you may.

11 (Sidebar.)

12

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- Sidebar -

2853

1 MR. COLES: Mr. Werbner objected and you sustained
2 his objection to me going into this area. So this is
3 certainly outside of the scope of the direct examination.

4 THE COURT: Why could you not just say, outside of
5 the scope, we would not have to come here, sustained.

6 MR. COLES: Because I thought you didn't want us to
7 say anything.

8 THE COURT: If you would have just said "objection",
9 I would have said "sustained".

10 MR. COLES: I'm trying to figure it out the right
11 way.

12 (Open Court.)
13
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25

Mazen - Cross - Werbner

2854

1 BY MR. WERBNER:

2 Q Can we bring up Plaintiff Exhibit 4769, please.

3 I think you will be able to see it. It is in
4 evidence. Do you see it on the screen Mr. Hamden.

5 A There is nothing on the screen, no.

6 Q May I approach, Your Honor.

7 THE COURT: Yes. I think you have to give it a
8 minute.

9 MR. WERBNER: Okay. I have an extra copy so you can
10 look at that while it comes up.

11 Q This is dated May 5th of 2003, correct?

12 A May the 5th, 2003, yes.

13 Q And it is addressed to the respected Mr. Abu Hamdan,
14 manager of the Palestine region and branches, isn't it?

15 A Yes.

16 Q And someone on the Arabic copy which is really the actual
17 document, has placed some handwriting on it, correct?

18 A Yes.

19 Q And, what is that handwriting say?

20 A It is referred to Mr. Mohammed Tahhan, the head of
21 operations, Mr. As'ad Abbas, who is the head of the transfer
22 department, and it was signed by Mr. Taysir Sadeg, who is the
23 head of the financial department, and he was asking them to
24 respond to that record.

25 Q And I will represent to you that Mr. Mohammed Tahhan and

Mazen - Cross - Werbner

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1 Mr. Taysir Sadeg are going to be witnesses in the case.

2 Have you seen them in the last day or two?

3 A Yes.

4 Q So, they are here, prepared to be witnesses. We know
5 from that handwriting then, that this letter was received by
6 Arab Bank, correct?

7 A Yes.

8 Q And, it was addressed to you, wasn't it?

9 A Yes.

10 Q And, from having this, it is clear that Arab Bank was
11 involved in transfers to both prisoners as well as martyrs,
12 correct?

13 MR. COLES: Objection, scope.

14 THE COURT: Sustained.

15 Q When you joined the bank in July of 2002, I think you
16 told us on direct, that you had come from a 5-year stint at
17 the Cairo Amman bank, correct?

18 A About five years, yes.

19 Q And, the Cairo Amman bank, where you had worked had quite
20 a few branches in the West Bank and Gaza, right?

21 A They had 19 branches then.

22 Q The Bank of Palestine also had quite a few branches in
23 the West Bank and Gaza at that time, correct?

24 A Yes, correct.

25 Q And other institutions had some branches in the West Bank

Mazen - Cross - Werbner

2856

1 and Gaza at the time, correct?

2 A There were eight Jordanian banks that had branches and
3 either eleven or ten, Palestinian banks.

4 Q So, there were, would you say, one hundred or more
5 branches of banks among fifteen or twenty institutions in the
6 West Bank and Gaza during the second Intifada?

7 A I would say so.

8 Q So, customers in the West Bank and Gaza, had a choice as
9 to where to bank, right?

10 A Of course.

11 Q So, it wasn't like there was no other option for the
12 whose who of Hamas when they went to choosing a bank, right?

13 MR. COLES: Objection, Your Honor.

14 THE COURT: Sustained.

15 Q You mentioned the difficulty in moving about during the
16 second Intifada. Do you recall that testimony?

17 A Yes.

18 Q May I borrow the map?

19 Can you see that, Mr. Hamdan?

20 A Yes.

21 Q So, it was even hard from just the seven miles from
22 Ramallah to Jerusalem to move about the roads when there was
23 all this violence going on, correct?

24 A Correct.

25 Q And it was certainly hard to go from Ramallah at the

Mazen - Cross - Werbner

2857

1 center of the West Bank down to the south where Hebron is
2 located, right?

3 A Right.

4 Q And it would be hard to go from Ramallah up to Nablus, or
5 all the way up to Jenin during this period of violence, right?

6 A That's right, and vice versa.

7 Q Right.

8 A Most of all, employees were living in the north and they
9 were coming to-- commuting to Ramallah on a daily basis.

10 Q It was frequently the case that people could not move
11 from these various cities to other parts of the West Bank,
12 right?

13 A On certain dates, yes.

14 Q And, we even heard, I think the jury heard last week,
15 maybe it was Mr. Heranni that sometimes people resorted to
16 donkeys to carry things, because the roads were all
17 unpassable, right?

18 A The bank did.

19 Q Well, there was one thing that could get passed a
20 roadblock, wasn't there?

21 MR. COLES: Objection, Your Honor.

22 THE COURT: Overruled.

23 A I don't understand the question.

24 Q Well, even the donkey, if it had to go through a
25 roadblock was going to be stopped and searched, correct?

Mazen - Cross - Werbner

2858

1 A That's right.

2 Q But there was one thing that a roadblock would not stop
3 during this time, and that was a wire transfer of money from
4 one branch down here, that could move up in a matter of
5 minutes to the other end of the West Bank, correct?

6 THE COURT: Same objection?

7 MR. COLES: I had an objection about five minutes
8 ago at the start.

9 THE COURT: The objection to the question is
10 sustained.

11 Q When a wire arrived at an Arab Bank branch during the
12 Intifada from the Saudi Committee, that wire would be placed
13 in a customer's account the next business day, correct?

14 A After 24 hours.

15 Q So, within 24 hours, money could be moved all over the
16 West Bank, right?

17 A No.

18 Q No?

19 A Of course not. You can carry and move from one city to
20 the other. In that situation, if there is violence and people
21 are being killed on both sides of the conflict.

22 Q My question is, if you have someone in Hebron?

23 A Yes.

24 Q Who wants to take money to Jenin, Arab Bank can wire that
25 money and have it there in 24 hours, correct?

Mazen - Cross - Werbner

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1 A Correct, and you can have it in New York in 24 hours as
2 well.

3 Q And, if somebody lives in Nablus, and there is money,
4 \$5,000 in cash, they don't even have an account at Arab Bank,
5 they can walk into their local branch and walk out with over
6 \$5,000 in cash, and not have to go more than a mile or two to
7 reach that Arab Bank branch; isn't that right?

8 MR. COLES: Objection, Your Honor.

9 THE COURT: Overruled.

10 Q Do you agree with me?

11 A Sorry, I need to listen to the question again.

12 Q No problem.

13 A Please.

14 Q If somebody in Jenin wants cash money for whatever
15 purpose, and these roads are all blocked, and it can take days
16 and days, if not forever, to get up there, using an Arab Bank
17 branch, can move that money in 24 hours, right?

18 A That's correct.

19 Q And that can be done even when the recipient of that
20 money has no account. Arab Bank during the Intifada was just
21 paying that money in cash over the counter?

22 A This is an international banking practice.

23 MR. COLES: Objection.

24 THE COURT: Overruled.

25 Q Do you think it is a common practice for a bank to

Mazen - Cross - Werbner

2860

1 receive money for someone that is not a customer, and to place
2 ads in the newspaper, telling them they can come in and pick
3 up that money or make phone calls and telling they can come
4 in, they are not even customers, is that routine?

5 A It is not routine and the bank has never done that. We--

6 Q Excuse me, I will object beyond that as not responsive,
7 Your Honor.

8 THE COURT: He has not said anything yet, but you
9 are right, go on to another question.

10 Q So, if there is evidence that ads were placed for people
11 to come in, you are unaware of that, is that your testimony?

12 A Can you repeat the question, please.

13 Q Yes.

14 If there were ads in the newspapers saying to
15 people, you can come to your local Arab Bank branch manager to
16 get money from a Saudi Committee, if there is such a thing,
17 you don't know about it; is that right?

18 A That's right.

19 Q And if people have said that telephone calls were made by
20 Arab Bank to people who weren't customers, to come in and get
21 money from the Saudi Committee, you are unaware of that,
22 right?

23 A If there is instructions from the-- from the Arab
24 National Bank to contact a certain person with a telephone
25 number, or an address, then the bank will do that, yes.

Mazen - Cross - Werbner

2861

1 Q How about if there is no address or telephone number?

2 A We just leave it there until he comes to the branch and
3 asks for it.

4 Q And if somebody at Arab Bank was actually looking up
5 phone numbers and trying to locate people that weren't even
6 customers as part of this striving for the success of the
7 Saudi Committee, you are not aware of that?

8 A No.

9 MR. COLES: Objection, Your Honor.

10 THE COURT: Overruled.

11 A It wasn't done.

12 Q You keep saying it wasn't done. There is sworn testimony
13 here that it was done.

14 MR. COLES: Argument.

15 A I am the guy who knows.

16 THE COURT: Stop, there is no question pending.
17 Stop.

18 Sir, hang on. There is no question pending, the
19 beginning of that question is stricken, go onto another
20 question.

21 Q Now, during the Intifada, you read a number of newspapers
22 to keep up with the news, correct?

23 A Yes.

24 Q You read the International Herald Tribunal?

25 A That's correct.

Mazen - Cross - Werbner

2862

1 Q And that was in English?

2 A Yes.

3 Q You read the Al-Quds, which was a newspaper in Arabic,
4 correct?

5 A Yes.

6 Q You also read Al Ayyam, which is another Arabic
7 newspaper, correct?

8 A That's.

9 Q And Al-Quds and Al Ayyam are widely read in the West Bank
10 and Gaza?

11 A Yeah, they distribute between ten to eleven thousand
12 newspapers every day, each.

13 Q And you stay abreast of the news via Al Jazeera, right?

14 A Yes.

15 Q The BBC?

16 A Yes.

17 Q And you saw T.V. and headlines of many, many of these
18 suicide attacks we have been discussing in this case, didn't
19 you?

20 A Yes.

21 Q They were often on the front page of these newspapers,
22 right?

23 A Some of them were.

24 Q And, CNN and similar news channels carried these as
25 breaking news stories, didn't they?

Mazen - Cross - Werbner

2863

1 A I believe they did.

2 Q For example, the Sbarro Pizza in Jerusalem, you heard
3 about it that very day, didn't you?

4 A Of course I did.

5 Q When --

6 A My children were on school on that day.

7 Q I assumed that, because you mentioned that.

8 A Yes.

9 Q And people were being killed in restaurants, buses,
10 cafes, correct?

11 A Correct.

12 Q And you knew these were -- many of them being committed
13 by Hamas suicide bombers, correct?

14 A Some of them, yes.

15 Q Did you ever check to see if your bank was wiring money
16 to those people's family?

17 A I didn't check, no.

18 Q I wanted to mentioned one other thing while we have the
19 map up, the Gaza Strip is not connected to the West Bank, is
20 it?

21 A No.

22 Q And so, it is particularly hard at any time to get from
23 the West Bank to Gaza, correct?

24 A You need the approval from the Israeli government.

25 Q And I doubt they weren't giving it during the Intifada

Mazen - Cross - Werbner

2864

1 were they?

2 A They were giving some, but very few.

3 Q And, so you would agree that if you had someone in Gaza,
4 it would be much easier to move money from the people in Gaza
5 to people in the West Bank if they had access to a bank's
6 international wire system, right?

7 A Any bank was operating within the territories would have
8 been able to do the same thing, yes.

9 Q Do you know that at the time you were wiring money at
10 your bank for Sheik Yassin?

11 A No.

12 Q Do you know that at the time --

13 MR. COLES: Objection.

14 THE COURT: Well, I'm not going to sustain the
15 objection to that question. That question is fine.

16 Mr. Werbner, if you going to go through all the
17 evidence in the case, I'm not going to let you do that.

18 MR. WERBNER: I know that will take too long, I want
19 to ask a representative a question.

20 Q In light of your answer Mr. Hamdan, you are not aware
21 that Sheik Yassin and other Hamas leaders in Gaza, were using
22 your bank to wire money to other Hamas operatives?

23 MR. COLES: Objection.

24 THE COURT: Overruled.

25 A I wasn't aware, no.

Mazen - Cross - Werbner

2865

1 Q But just a minute ago, when you were answering my
2 questions, you wanted to go out of your way about the
3 newspapers and say you were the top man and you knew
4 everything?

5 MR. COLES: Objection.

6 THE COURT: Sustained. You have to be a little
7 quicker Mr. Coles.

8 MR. COLES: I'm sorry.

9 Q You saw many posters during this period of time with
10 particular pictures of martyrs, correct?

11 A Yes.

12 Q They were plastered everywhere, weren't they, during the
13 Intifada?

14 A That's correct.

15 Q In fact they were plastered on Arab Bank branches, right?

16 A That's correct.

17 Q And, Arab Bank employees would have to go out there and
18 take a hold of these martyr posters, to remove them, right?

19 MR. COLES: Objection.

20 THE COURT: Sustained.

21 A Well, they were plastered.

22 THE COURT: Stop. You don't have to answer that.

23 THE WITNESS: I'm sorry.

24 THE COURT: That's okay.

25 Q Sir, you know what the term "Amaliyya Istishhadiyyah"

Mazen - Cross - Werbner

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1 means, don't you?

2 A Yes.

3 Q If you had seen that in an Arab Bank document, you would
4 have understood that to mean a suicide operation, right?

5 A I would say so. That is a suicide operation.

6 Q And there shouldn't be any doubt about what that means,
7 if you are living in that period of time, and you see that on
8 a document?

9 MR. COLES: Objection, Your Honor.

10 THE COURT: Overruled.

11 Q That is not an esoteric phrase that people would be
12 unfamiliar with, at that time, would it?

13 A No.

14 Q While you were the top man, your bank transferred money
15 for designated global terrorists, didn't it?

16 A No, not to my knowledge.

17 MR. COLES: Objection, Your Honor.

18 THE COURT: Sustained.

19 Q Let's look a minute at the August 2003 designation. In
20 the interest of time, I have it here if you want to see it.
21 It is Plaintiff's Exhibit 1248, that August 2003 designation,
22 designated among other people, Interpal, and ASP and CBSP?

23 A Designated by whom?

24 MR. COLES: Objection.

25 THE COURT: Sustained.

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1 Q Have you at any time before your testimony, looked at the
2 evidence to see if in fact, your bank after August of 2003,
3 was transferring money to designated terrorists on behalf of
4 Interpal or other designated terrorists?

5 MR. COLES: Same objection.

6 THE COURT: Different question, overruled.

7 Q Have you looked to see that?

8 A Can you repeat the question, please, again, just to
9 understand it.

10 Q No problem.

11 A Please.

12 Q Have you at any point looked at the evidence to determine
13 whether while you were the top man, your bank-- under your
14 management, were transferring money to designated global
15 terrorists?

16 A I've never seen that in my bank.

17 Q Have you asked to look at those records?

18 A I looked at many many records, yes.

19 Q Have you asked to see any records that reflect that?

20 A What do you mean by that?

21 Q I mean have you said to anybody that I want to see the
22 records, I know it is being contended that we transferred
23 money after any of these were designated. Have you asked to
24 see records to determine that?

25 A To whom?

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1 MR. COLES: Objection.

2 THE COURT: Sustained.

3 Q The United States?

4 THE COURT: Mr. Werbner, stop. Put another
5 question.

6 Sir, I know you don't do this for a living. If I
7 say "sustained", that means you don't answer. If I say
8 "overruled", that means you answer.

9 THE WITNESS: Sorry for that.

10 THE COURT: That is all right.

11 Q You do not dispute that while you were the top man there,
12 lots of money was being transferred to Shahid, do you?

13 A Shahid--

14 MR. COLES: Objection.

15 A I would love to pay money to a Shahid.

16 THE COURT: Hang on, stop. You can't just keep
17 going like there is no objection. There is an objection. It
18 is sustained. Go on to another question.

19 Q Did you just say you would love to pay money to Shahid,
20 is that what you just said?

21 A Can I pay?

22 Q I'm asking you first.

23 MR. COLES: Can we have a sidebar?

24 THE COURT: Stop. Everyone stop. Mr. Werbner, ask
25 another question.

Hamdan - Redirect - Coles

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1 Sir, don't answer the question until the bank's
2 lawyer has a chance to object to see if he wants you to
3 answer.

4 THE WITNESS: Okay. Fine. Now I understand.

5 Q I'm simply asking about something that I didn't hear.
6 Did you say you would love to pay money to Shahid?

7 A I was joking.

8 MR. COLES: Objection.

9 MR. WERBNER: I will pass the witness.

10 THE COURT: Any redirect?

11 MR. COLES: A short redirect.

12 REDIRECT EXAMINATION BY MR. COLES:

13 Q Hello again.

14 A Hi.

15 Q I just have a few questions for you.

16 Mr. Werbner, was asking you about other banks that
17 were in the Palestinian territories during the second
18 Intifada, I think he said Cairo Amman and some other banks?

19 A There were 21 banks.

20 Q And, can you tell me, how the second Intifada affected
21 all their operations.

22 MR. WERBNER: I will object to that.

23 THE COURT: Yes. If you can get a foundation Mr.
24 Coles, you can have that.

25 Q Are you aware, sir, from your surveys on the association

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1 of banks, and union of Arab Banks and the other organizations
2 that you were apart of, during the second Intifada, how the
3 second Intifada affected those other banks that Mr. Werbner
4 asked you about?

5 MR. WERBNER: Same objection.

6 THE COURT: The question is, is he aware, that calls
7 for a "yes" or "no" answer. Are you aware?

8 A Can you repeat the question?

9 Q Yes.

10 Are you aware of the second Intifada affected other
11 banks in the Palestinian territories?

12 A Yes.

13 Q And how did it affect those banks?

14 MR. WERBNER: Objection.

15 THE COURT: How do you know, how it affected those
16 banks?

17 THE WITNESS: We had regular meetings at the society
18 of banks in Palestine.

19 THE COURT: Okay.

20 THE WITNESS: We were discussing those issues
21 regularly.

22 THE COURT: The objection is overruled. You may now
23 answer how it affected the other banks.

24 Q Go ahead, you can answer.

25 A Most of the banks were using money and some banks had to

Hamdan - Redirect - Coles

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1 close branches because they were not making money, which means
2 that unemployment goes higher and the need for support is even
3 higher from the Saudi Committee or other donors in the west.

4 Q And was that due to the second Intifada?

5 A Yes.

6 Q Mr. Werbner asked you about the Sbarro bombing, do you
7 recall that?

8 A Yes.

9 Q Do you have a personal experience with the Sbarro
10 bombing?

11 A It was less than 100 meters from the school of my
12 children, less than 70 meters.

13 Q You testified that you took your children out of the
14 Palestinian territories?

15 A I send them to Amman, Jordan.

16 Q That was for their safety?

17 A They lived with my father. My father's place. For quite
18 sometime.

19 Q Mr. Werbner also asked you whether or not you personally
20 checked the beneficiaries of wire transfers?

21 A No, that is not my job. I have qualified staff who knows
22 how to do the job.

23 Q And, there are other people who had that responsibility,
24 right?

25 A Yes.

Hamdan - Redirect - Coles

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1 Q If fact, compliance department?

2 A Compliance and audit department both.

3 Q Can you tell the jury whether in fact those beneficiaries
4 were checked?

5 A Yes.

6 MR. WERBNER: I will object to that.

7 THE COURT: Sustained.

8 Q Mr. Werbner, I will have troubling pronouncing this, used
9 the word, amaliyya istishhadiyyah?

10 A That's good.

11 Q Is that close enough.

12 You know what I'm talking about.

13 A Yes, of course.

14 Q And he asked you whether or not-- he asked you whether or
15 not that was a suicide operation?

16 A It is a suicide operation. I think --

17 Q And --

18 A -- that is the exact translation of the phrase.

19 Q And, would it include any kind of suicide operation?

20 A What do you mean by that?

21 Q Is it-- does it include only suicide bombers or other
22 operations as well?

23 A Other operations, of course.

24 MR. COLES: I have no further questions for you.

25 Thank you very much for your time.

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1 THE COURT: You may step down, thank you.

2 (Witness excused.)

3 THE COURT: Defendant may call its next witness.

4 MR. COLES: The defense calls Baker Mohammed

5 Al-Omari.

6 BAKER MOHAMMED AHMAD AL-OMARI, having been first duly sworn,
7 took the stand and testified as follows:

8 COURTROOM DEPUTY: You maybe seated.

9 THE COURT: You may inquire Mr. Coles.

10 MR. COLES: Thank you, Your Honor.

11 DIRECT EXAMINATION BY MR. COLES:

12 Q Mr. Al-Omari, good morning.

13 A Good morning. Good morning for you all.

14 Q Now, Mr. Al-Omari, you told me you wanted to testify in
15 English today; is that right?

16 A Yes, I will do my best.

17 Q You testified in your deposition in Arabic, right?

18 A Yes.

19 Q You think you can do it in English today?

20 A Yes. I will do my best like I said.

21 Q And, in case you need some assistance, there are two
22 translators who are very adept who are sitting right next to
23 you.

24 A Thank you.

25 Q You have four names, that is fairly common isn't it in

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1 Palestine?

2 A Yes.

3 Q We have also heard that Arabic names sometimes have a
4 meaning associated with them?

5 A Yes.

6 Q Does the name "Al-Omari" have a meaning associated with
7 it?

8 A Yes. The meaning for this is the person who come after
9 our prophet.

10 Q And, the name, your second name, Mohammed, does that have
11 a meaning?

12 A Yes, Mohammed is the name of our prophet.

13 Q Ahmad?

14 A Ahmad is the second name for our prophet. It is familiar
15 to the first name Mohammed.

16 Q And does your first name, Baker have a meaning in Arabic?

17 A Yes. That means son of camel.

18 Q Son of a camel?

19 A Yes.

20 Q You have three prophets and the son of a camel?

21 A Yeah.

22 Q Where do you live Mr. Al-Omari?

23 A I live in Jenin City.

24 Q And, as we have before, I don't know that we have had
25 anyone go through the geography of Jenin, if with the Court's

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1 permission, you can step down, I will put up a map, and if you
2 can orient us and the jury to Jenin?

3 A May I come there?

4 Q Please.

5 (Witness left the stand.)

6 THE COURT: Please speak loudly when you are in
7 front of the map so the Court Reporter can write down what you
8 say.

9 MR. COLES: And slowly so everyone can hear.

10 THE COURT: Mr. Coles will he be up there awhile? I
11 will give him a mic if he is.

12 MR. COLES: Only for a couple of minutes.

13 THE COURT: Okay.

14 A As you see, here is the map of the middle east, here is
15 the West Bank and as you see here, Jordan, and the river of
16 Jordan.

17 Here is the strip of Gaza, here is the Mediterranean
18 Sea and as you see Jenin is up north, it is near the border of
19 Israeli city, like you see here. This is the West Bank.

20 Q How close is Jenin to the border of Israel?

21 A About 50, 100 meters, half kilo of the border of Israel.

22 Q You can walk?

23 A Yes.

24 Q Please return to your seat.

25 With the Court's permission can he return to the

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1 witness chair?

2 THE COURT: Sure. Can you also take the poster
3 board down.

4 (Witness returns to witness seat.)

5 MR. COLES: We also have a photograph of Jenin that
6 we have shared with the other side. If we can display that.

7 THE COURT: Any objection to admitting that
8 photograph? You want it admitted Mr. Coles or shown?

9 MR. COLES: I think shown is fine, if that is okay.

10 THE COURT: Go ahead.

11 (Displayed.)

12 Q Mr. Al-Omari if the technology worked properly, in front
13 of you, there should be a photograph of Jenin. Did you take
14 this photograph?

15 A Yes.

16 Q You did take it or do you recognize it?

17 A No, this is the site of my city, Jenin.

18 Q Can you describe what is in the photograph?

19 A This is the building of the city where I live, where I
20 live in Jenin, and you like? It is very beautiful city.

21 Q And, basically, how many people live in the Jenin area?

22 A In the city of Jenin, about 30,000 people. But the city
23 and the around village, about 200,000.

24 Q About two hundred thousand people in the Jenin area?

25 A Yes.

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1 Q You mentioned earlier when we were looking at the map
2 Jenin was very close to Israel?

3 A Yes.

4 Q Is there an economic link between Jenin and Israel?

5 A Strong link, strong one. Before the Intifada and before
6 and after the Intifada, the Israelis come, enter to Jenin, to
7 go shopping, and pay a day, about five thousand Israelis,
8 enter to Jenin to go shopping and have dinners and Jenin's
9 famous restaurants.

10 And, because of the site of the Jenin near the
11 border of Israel, if Israeli citizen wants to enter Jenin, and
12 he is from an a far, it takes about ten or fifteen only to
13 enter Jenin to have dinner in its famous restaurants.

14 In the opposite the traders of Palestine people
15 enter to Israel city to buy goods from Israeli territories.
16 So that there is a-- strong link between Jenin and Israel
17 cities.

18 MR. COLES: Just before I get away from Jenin, the
19 next DX number is 1624, if plaintiffs don't object, maybe we
20 can introduce this picture of Jenin as DX1624.

21 THE COURT: Introduced. Move into evidence?

22 MR. COLES: Yes.

23 THE COURT: Any objection?

24 MR. TURNER: No, Your Honor.

25 THE COURT: Received.

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1 (So marked.)

2 Q Mr. Al-Omari, what do you do for a living?

3 A I own a bakery and two supermarkets and I import goods
4 from China and I have a store to sell. Recently, I bought a
5 pharmacy in the midtown of Jenin, all in the midtown of Jenin.

6 Q What kind of customers do you have in your store and your
7 pharmacy in Jenin?

8 A My customers, I would say before, for the side of the
9 city and the side for my stores, which is up north to Jenin,
10 mean, closer to Israel, ten percent of my customers from
11 Palestinian area, but most of them, about 90 percent of my
12 customer, was Israeli people. Israeli people.

13 Q Can you please tell us a little bit about your family,
14 sir? Can you tell us a bit about your family?

15 A Yes. I am resident, a Palestinian resident from a
16 Palestine family. My family was the oldest family who lived
17 in Palestine, and my family is the first family who lived in
18 Jenin.

19 My father was a gardener, so he worked as a gardener
20 and worked in garden where the tomb Rothchild was found,
21 Rothchild who is the person started Israel government. My
22 father worked there about 13 years.

23 My wife with him, lived with him and my father died
24 two years ago and my father-- my father until now have a
25 secure, have a social security benefits from the government of

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1 Israel. It was the half of my father's salary.

2 I have eight brothers, all of us, are there. My
3 oldest brother, was a doctor, specializing in gynecology.

4 THE COURT: Sir, before you go on.

5 I suppose we are going to go through all eight
6 siblings?

7 (Transcript continues on next page.)

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1 THE COURT: Sir, before you go on, I suppose we are
2 going to go through all eight siblings?

3 MR. COLES: No, Your Honor. But thank you.

4 THE WITNESS: I try --

5 THE COURT: It is very nice, but --

6 THE WITNESS: What's the --

7 Mr. Coles: I just hope they are all customers of
8 the store that he has in Jenin.

9 BY MR. COLES:

10 Q Do you have a brother who is an Israeli citizen?

11 A Yes.

12 The other -- the other one who is Israel -- my
13 second brother is Israeli resident. He work in -- he was work
14 in the Rothchild -- in Rothchild Gardens and because he's --
15 Israel -- he retired early.

16 My -- another brother was a teacher.

17 Q Okay.

18 A And for me now I am -- I have owned my -- my works and
19 before I was -- I was manager of Arab Bank in Jenin. The
20 other three of my brothers was furniture maker and they have a
21 factory for this.

22 My sister --

23 Q Finish with your sister. I'm sorry.

24 A Yes, I will finish.

25 My sister was Israeli resident. He died in 1995

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1 because his death in cancer and he has only one son, who was a
2 director in Israel.

3 Q Are you married?

4 A Yes, I am married.

5 Q You don't have 30 children, right?

6 A Yes.

7 Q Tell us just quickly about your family. We don't have to
8 go through one by --

9 A Yes.

10 I have five children, three girls and two boys. The
11 older is a dentist, my older girl is a dentist. The other one
12 is -- twelfth grade and the other tenth grade.

13 I have two boys, the older is second grade and the
14 youngest one, I leave him, is in third years old.

15 Q Have you lived in Jenin all your life?

16 A Yes, I have lived in Jenin.

17 Q Did you go to high school or secondary school in Jenin?

18 A I continued my education in Jenin.

19 Q After graduating from high school in Jenin, did you have
20 an opportunity to go to college?

21 A Yes.

22 I have a baccaloreus degree in accounting and I have
23 a master -- I have a master degree in finance in Arabic
24 Academy For Finance and Banking.

25 Q Okay. After you graduated from college with the degree

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1 in finance and banking, did you find a job?

2 A You know, when I graduated from university, it was the
3 first intifada in Palestine. So that I served a job in Jordan
4 and I'm working in field of audit and I am -- and I was a
5 manager of a restaurant in Amman.

6 Q How long did you do that?

7 A About one to two years.

8 Q Okay. Did there come a time when you returned to the
9 Palestinian territories?

10 A Yes.

11 Q When was that, sir?

12 A 1994 I returned to Palestine.

13 Q What were the circumstances when you returned?

14 Were you offered a job?

15 A Yes.

16 As you know, the peace -- peace deal signed between
17 Israel and Palestine and -- and I want to be near my family in
18 Jenin and I expected and new -- got a job, a good opportunity
19 so, I returned to Palestine where I live.

20 Q Were you able to get some banking experience?

21 Did you work for a bank?

22 A Yes.

23 Q What bank did you work for when you returned to
24 Palestine?

25 A I applied in Cairo Amman Bank and worked there at the

Al-Omari - direct - Coles

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1 original management in Palestine.

2 Q Okay. How long did you work at Cairo Amman Bank?

3 A About one year.

4 Q Okay. Did there come a time when you were recruited to
5 work at Arab Bank?

6 A Yes.

7 Q Okay. When was that?

8 A In 1995.

9 Q Okay. Starting in 1995, how long did you work at Arab
10 Bank?

11 A About 15 years all, 15 years.

12 Q So you worked at Arab Bank from 1995 to 2000?

13 A Yes, to 2010.

14 Q Okay. You are not employed by Arab Bank today, are you?

15 A No, I am not employed at Arab Bank.

16 Q You live in Jenin, which is a long way away, right?

17 A Yes.

18 Q Okay. Why did you come here to testify?

19 MR. TURNER: Objection, Your Honor.

20 THE COURT: Sustained.

21 Q Mr. Al-Omari, what was your first job when you started at
22 Arab Bank in 1995?

23 A My job is the head of accounting facilities. Accounting
24 department. Sorry.

25 Q Okay. When you became the head of the accounting

Al-Omari - direct - Coles

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1 department, was that at the Jenin branch?

2 A Yes.

3 Q Okay. Had that branch just opened in 1995?

4 A Yes.

5 Q Okay. Could you tell us what your responsibilities were
6 as head of the accounting department at the Jenin branch in
7 1995?

8 A Yes.

9 The main -- our main responsibility to audit the
10 financial -- financial operation and the transactions that
11 happen in the branch, and then to audit the balance sheet and
12 profit sheet. At that time there was no -- there was no
13 advance computing programs to do accounting to do in the
14 branch. All of the work, huge of the work, we do it manually.
15 So that very huge job we do in the accounting department.

16 Q Did you earn a promotion to a new position?

17 A Yes.

18 Q What was that?

19 A Head of credit facility department in Jenin branch.

20 Q When did you start that job?

21 A About 1996.

22 Q For how long did you stay in that job?

23 A About nine years.

24 Q About nine years?

25 A Yes, about nine years.

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1 Q Okay. Could you tell us what your responsibilities were
2 as head of the credit facilities department in the Jenin
3 branch?

4 A Yes, sir.

5 At that time Jenin witnessing prosperity and growth
6 economy. At that time we studied the market of Jenin and the
7 economic sector working in Jenin. Then we study the
8 suitable -- the suitable -- the suitable loans for these
9 sectors and then we filled the sectors with the facility they
10 need.

11 After that, we follow up the facility, we grant to
12 the -- to the companies and all the sector, the sector, and
13 after that the important thing was for us was to see the --
14 the economic sector, which is be better and bigger, so that we
15 believed that we built economy, so that we believe we built
16 company, and at last, do you know, we made good profit from
17 our work.

18 THE COURT: Sir, what time period are you talking
19 about now?

20 THE WITNESS: I am talking about -- about 1996 to
21 2004, sir.

22 THE COURT: Thank you.

23 Q That's when you worked there, right?

24 A Yes.

25 Q How many people worked in the branch in Jenin in the 2000

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1 timeframe?

2 A You mean, how many employees?

3 Q How many employees, yes.

4 A About 25 to 30 employees.

5 Q You mentioned that part of your job when you started
6 there in 1996 was to provide credit facilities or loans to
7 customers?

8 A Yes, sure.

9 Q Could you briefly tell us what kind of customers you had
10 in the Jenin branch?

11 A At that time the kind of loans we grant is the -- the
12 retail loans and the corporate loans. Two kinds of facility.

13 Q Okay. So you worked at the bank in Jenin from 1996 to
14 2004?

15 A Yes.

16 Q And then what did you do next?

17 A After that, I -- I work in the regional management, in
18 the retail department for one year, and then returned to Jenin
19 as a branch manager.

20 Q So you worked in -- you went to Ramallah for one year?

21 A Yes.

22 Q In 2004 and you returned as the branch manager in Jenin
23 in 2005?

24 A Yes.

25 Q Okay. What I want to do, Mr. Al-Omari, is talk about the

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1 period of time of the second intifada, which was roughly 2000
2 to 2004.

3 A Yes.

4 Q That was about four years into your job as head of the
5 yesterday facilities, right?

6 A Yes.

7 Q Okay. Are you familiar with the term second intifada?

8 A Yes.

9 Q What was the second intifada?

10 A The second intifada is a period that bad things happened
11 in my lovely city and in Israel's city. I can describe it
12 with a word. It's grief. It's a period of killing. It's a
13 period of destroying the economy. It's a period that
14 destroyed my -- my city and the economy of my city that we
15 built before the intifada. All -- all of things were
16 destroyed. All of things was destroyed. It's a period of
17 afraid, it's a period of kill.

18 Q What was the effect of the second intifada on the Arab
19 Bank branch in Jenin?

20 A The effect that Arab Bank is in city in Jenin and the --
21 the hard condition reflects on the bank, so that the economy
22 is down. There is no work. There is all -- mostly more than
23 60 per cent of the days. The city was closed. When the city
24 was closed, there is no work, and the important thing that the
25 link, you asked me about between us and the Israeli cities and

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1 the Israeli citizens who enter Jenin to shop and to have the
2 dinners, this is stopped because Israeli government disallowed
3 the citizen to enter Jenin because of the problem of their
4 life. So most of their shops in Jenin were shot, economy
5 destroyed, down. Everything is destroyed, sir.

6 Q There has been some testimony in this case about posters
7 that were put up in Palestine, in the Palestinian territories
8 during the second intifada.

9 A Yes.

10 Q When you were at the Jenin branch, were sometimes -- did
11 you see posters put up around Jenin?

12 A Yes, sir.

13 If you ask me about the poster, the poster was found
14 and posted everywhere you go. It was posted on the face of
15 the center shop. It faced -- the face of our branch, our
16 branch in -- there was poster -- posted on the face of our
17 branch. And wherever you go, you will find these posters.

18 Q What did you do when you saw posters that were put on the
19 branch of Arab Bank in Jenin?

20 A The sight of the posters was annoying me. I don't want
21 to see the face of my branch with poster. So that I decide in
22 myself to remove all the posters. But it is very dangerous
23 for me and for my employee to take away these posters away.
24 So that you must be wise how to remove these posters.

25 So I -- first I removed part of the posters and

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1 after two days or three days, I will tear and take away
2 another part of the poster and finally I will say to one of my
3 employees please go and take away the thing that is on the
4 wall on the face on the branch and remove the posters.

5 Q Why did you have to do it piece by piece like that rather
6 than just pulling it down?

7 A I say in the beginning of my words, it's very dangerous
8 for everyone to remove these posters because the people who
9 fix them will come and ask you why you remove these poster and
10 simply maybe kill you, shoot you, because you remove the
11 poster in front of the, so that if I ask why remove these
12 posters, I will say, these posters, not posters, half poster,
13 it not good to see them half poster. So that I remove it.

14 THE COURT: Mr. Coles, about how much longer do you
15 have?

16 MR. COLES: I have probably another 15, 20 minutes.
17 Do you want to take a mortgage break now?

18 THE COURT: Is this an okay time for you?

19 MR. COLES: Yes, Your Honor.

20 THE COURT: Ladies and gentlemen, we will take our
21 morning break. Will come back in here just before 11:35.
22 Please don't talk about the case.

23 See you in a few minutes.

24 (The following occurred in the absence of the jury.)

25 THE COURT: Recess until 11:35.

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1 (Recess taken.)

2 (The following occurred in the absence of the jury.)

3 THE COURT: Please bring in the jury.

4 (Jury present.)

5 THE COURT: Everyone be seated.

6 Please continue, Mr. Coles.

7 MR. COLES: Thank you, Your Honor.

8 EXAMINATION CONTINUES.

9 BY MR. COLES:

10 Q Good morning again, Mr. Al-Omari.

11 A Good morning.

12 Q Before the break we were talking about the second
13 intifada.

14 A Yes.

15 Q Were there times when you had to close the Jenin branch
16 because of what was happening in the second intifada?

17 A Yes.

18 Closed the branch, I remember, approximately about
19 the 20 to 25 times we closed the branch in Jenin. Sometimes
20 we close at it for one hour. Sometimes we close it for hours.
21 Sometimes we closed for 15 days.

22 Q That must have been a difficult time for the bank's
23 employees?

24 A Yes.

25 It is very difficult for the bank employees

Al-Omari - direct - Coles

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1 because -- because it is very dangerous for the employees to
2 come from their home to the bank because there is a checkpoint
3 of Israeli soldiers around the City of Jenin and if they enter
4 Jenin the dangers may be inside Jenin from the people who have
5 gun machine and the thing that happen in the city. So that
6 it's very difficult and very dangerous for the employee of the
7 branch.

8 Q Okay. Were there times when you were actually in danger
9 while you were working at the Jenin branch?

10 MR. TURNER: Your Honor, objection.

11 THE COURT: He can answer that question yes or no.

12 A Yes.

13 Q Can you explain?

14 MR. TURNER: Objection.

15 A Yes.

16 THE COURT: All right. Let's have a short side bar.
17 Page.

18 (Continued on next page.)
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1 (Side bar.)

2 THE COURT: What is he going to say?

3 MR. COLES: There are two incidents where the branch
4 was held up essentially by terrorist organizations.

5 THE COURT: Hamas?

6 MR. COLES: One is unidentified and the other is
7 PIJ. The unidentified one, someone came in with guns and
8 ammunition clip and said they needed money the same way that
9 other people were needing money.

10 And the PIJ guy came in, the Arab Bank was not
11 processing their transfers.

12 THE COURT: What's PIJ?

13 MR. COLES: It's --

14 THE COURT: Palestinian jihad?

15 MR. TURNER: Palestinian Islamic Jihad.

16 THE COURT: The objection is?

17 MR. TURNER: It is totally irrelevant. It is
18 prejudicial. It goes to issues that don't have anything to do
19 with this case. It's all in an effort just to make everyone
20 feel like the bank is a nice person and good people and
21 victims.

22 THE COURT: I think that's true.

23 MR. COLES: I don't know that it is true.

24 THE COURT: What does it have to do with the issues
25 in the case?

GR

OCR

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CRR

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Al-Omari - direct - Coles

2893

1 MR. COLES: They are arguing that the bank had a
2 malicious intent to support terrorism. In fact, they were
3 trying to deal with terrorism themselves.

4 THE COURT: But, you know, Israelis blew up
5 Palestinians, Palestinians blew up Israeli, everyone called
6 each other terrorist.

7 The question, it seems to me, is faction
8 identification. If this was a Hamas attack and you could
9 document it as such, then I think I'd let him do it. But to
10 say some other terrorists that he doesn't really know who they
11 were in one and they weren't Hamas in the other? That does
12 not -- let's put it this way, I think it's classic Rule 403.
13 I have allowed him to testify at some length about the
14 difficulties of the intifada in terms of business and
15 life-style. I think that's enough. We don't need to get into
16 attacks that are not part of this trial.

17 MR. STEPHENS: Your Honor, the state of mind of
18 these people is one of the central issues in the case. He's
19 identified along with the rest of these people that you have
20 seen testify in their interrogatory answers as they are all
21 supporters of terrorism. Whether he is or isn't in his
22 personal experience with it and the fear that he felt in all
23 that was going on is certainly pertinent to his frame of mind
24 as a branch manager in Jenin, which is -- they identified
25 Jenin as a hotbed of bombing and terrorism.

GR

OCR

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CSR

Al-Omari - direct - Coles

2894

1 THE COURT: I would agree with you if this was a
2 Hamas attack. I would say that is relevant. Because it's not
3 a Hamas attack, I am not going to allow them in.

4 MR. OSEN: Your Honor, one more thing. It goes to
5 the preclusion order as well. There is no way for us to
6 verify what accounts they do or do not say they could not
7 hold, et cetera. It just goes down a rabbit hole that cannot
8 be cross-examined.

9 THE COURT: That's true. Okay.

10 (Continued on next page.)
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GR

OCR

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Al-Omari - direct - Coles

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1 (In open court.)

2 EXAMINATION CONTINUES

3 BY MR. COLES:

4 Q Hi, Mr. Al-Omari, I am back.

5 Were you aware that during this second intifada
6 terrorist attacks were committed in Israel?

7 A Yes.

8 Q And you had family living in Israel, right?

9 A Yes.

10 Q Okay. What was your reaction when you heard about those
11 terror attacks?

12 MR. TURNER: Objection.

13 THE COURT: I will sustain that to the form.

14 He can't just say what his reaction was. If you
15 have something specific that affected him, you could bring out
16 those facts.

17 Q Did you have specific concerns when you heard about
18 terror attacks in Israel?

19 MR. TURNER: The same objection.

20 THE COURT: I will allow that.

21 A It's very hard for me. I don't like to hear the term
22 terrorist attacks because for -- for two reasons.

23 The first, that the people who are killed are
24 innocent people. They don't do anything to kill.

25 And the second thing, as I mentioned for you, sir,

Al-Omari - direct - Coles

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1 in the beginning, part of my family is Israeli citizen. They
2 stayed in Israel. My brother and his family was going to work
3 on public transportation so that when I hear there is attack,
4 at once I call my brother and ask him about the safety of him
5 and her family.

6 Another thing that I want to say to you, my nephew
7 who is the son of the -- my daughter who died was graduated
8 from the university as a doctor and Israeli law requires --

9 THE COURT: I need to stop you, sir. This is beyond
10 what I wanted to allow.

11 THE WITNESS: Because I am --

12 THE COURT: Please put another question.

13 Q Okay. Why did you continue to work at Arab Bank during
14 the second intifada in light of the closures of the bank and
15 the difficulties caused to the bank?

16 MR. TURNER: Objection.

17 A It is not only the --

18 THE COURT: I will allow the question.

19 A It's only -- not only the thing you speak about that --
20 but there is nothing -- the city of my life was in danger.
21 But I decide to continue working at Arab Bank. First, I live
22 my work and I live my bank. So that if there -- it is not
23 good for me to leave the bank at this critical point, at this
24 critical time. I must stay in the bank and stop these
25 criminals people. We want to be -- we want to be -- we want

Al-Omari - direct - Coles

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1 us to be in the city. Not those peoples who make attacks. So
2 that we will open the branch and insist to open the branch
3 and -- and for me, the second reason why I stay in the bank,
4 that I have goal in my life so that when I enter Arab Bank as
5 an employee, I put in my mind that I must be a manager in the
6 bank. So that I don't want to leave the bank before to be the
7 manager on the bank and this is happened, thank god.

8 Q Did you actually achieve the --

9 A Yes.

10 Q -- being a manager?

11 A Yes. And I'm -- at last I'm the manager of the branch of
12 Jenin, of the Arab Bank.

13 Q When did you leave Arab Bank ultimately?

14 A Yes; I leave it in 2010.

15 Q That's when you started the businesses you have talked
16 about?

17 A Yes.

18 My business is -- first I open my small business,
19 which is a small in the first and then after the Israeli
20 government allowed the Israeli citizen to enter Jenin after
21 the intifada, it's my chance to expand my work. So that I
22 open a second supermarket and then I buy a pharmacy in the
23 town of Jenin.

24 Q Thank you very much for your testimony today.

25 A Thank you. (Continued on next page.)

Al-Omari - Cross - Turner

2898

1 THE COURT: Cross.

2 CROSS EXAMINATION BY MR. TURNER:

3 Q Mr. Al-Omari, if I understand correctly, you worked for
4 the bank for about fifteen years, is that right?

5 A Yes, sir.

6 Q And, during the relevant period of time, from 2000 to
7 2004, were you working in the credit facilities department; is
8 that correct?

9 A Correct, sir.

10 Q In the Jenin branch?

11 A Yes.

12 Q And that was separate from the routine bank, you were
13 sort of in a separate department, were you not, the credit
14 facilities department?

15 A Please, may you translate that?

16 INTERPRETER: Can you repeat that.

17 Q Was the credit facilities department, a different
18 department from the ordinary routine bank?

19 (Question was translated.)

20 A Not separately. But it have--

21 INTERPRETER: Independent.

22 A Independent, the person I report to, in the original
23 management.

24 Q And then in 2004, you moved to Ramallah and you were
25 working in Ramallah for about a year?

Al-Omari - Cross - Turner

2899

1 A Yeah.

2 Q Is that right?

3 A Yes.

4 I'm not sure about the last words.

5 Q He worked in Ramallah for about one year?

6 (Question was translated.)

7 A Yes, sir.

8 Q And then you came back to Jenin?

9 A Yes, sir.

10 Q And when you came back to Jenin, that was after the
11 Intifada?

12 A At the last-- at the last of the Intifada.

13 Q Now, let's focus--

14 A At the end of the Intifada.

15 Q Let's focus real quickly on the credit facilities
16 department, that had to do with customers and field visits?

17 A Yes.

18 Q And you had a team of individuals, did you not?

19 A Yes. I have one-- at the beginning, I have one employee
20 and then I have two employees.

21 Q You and your team, and you had a marketing function?

22 A Yes.

23 Q Did you not?

24 A Yes.

25 Q And, part of what you and your team would do is you would

Al-Omari - Cross - Turner

2900

1 go out in the field?

2 A Yes.

3 Q You would go out to meet your customers?

4 A Yes, surely.

5 Q And to learn about your customers?

6 A Yes.

7 Q You wanted to know about the kind of business they did?

8 A Surely.

9 Q And, the kind of people they were?

10 A What do you mean about the kind of people? You mean,
11 whether they are individual or companies?

12 Q Yes.

13 A Yes.

14 Q And, sometimes, you even asked to review their accounts,
15 their financial records of their businesses and their
16 organizations, did you not?

17 A The thing we do, to invest, to--

18 (Question was translated.)

19 A Investigate, investigate their law-- their business and
20 through my visit to them and investigate their account and
21 look the transactions of their account.

22 Q That was important, that is important information for the
23 bank to know?

24 A Yes, it is important to see what is the suitability,
25 loans to give.

Al-Omari - Cross - Turner

2901

1 Q Yup, you want to know, who they are, and you want to know
2 what their needs are, how you can help them?

3 A Yes, I must know who they are, whether they are-- they
4 have stores and wanted liquidity or whether they are companies
5 and they want to open letter of guarantee, and so, yes.

6 Q I presume you did your job as best you could?

7 A Yes.

8 Q You would send your team out to the field, they go out
9 and meet the customers?

10 A Let me say, I am the person who go out of the branch and
11 my team, the one employee at the beginning, who do the whole
12 work in the office.

13 Q Now, are you familiar with what an annual report is?

14 A Yes.

15 Q Do you know that the bank routinely every year, they
16 author and release to the public and the shareholders what is
17 called an annual report?

18 A Maybe translate the question.

19 MR. COLES: Objection.

20 THE COURT: I will overrule it for now. I want to
21 see what is going to happen.

22 A No, we don't distribute the annual report for the
23 customers. It is not important for-- am I to destroy the
24 annual report for the customer?

25 Q I didn't understand that, I'm sorry, can you tell me what

Al-Omari - Cross - Turner

2902

1 he is saying.

2 THE COURT: Well, you can speak in English.

3 MR. TURNER: I have no clue.

4 INTERPRETER: Are you asking, does the bank
5 distribute the financial reports to its customers and to those
6 who have credit facilities, there is no need for us to do that.

7 Q That is not what I'm asking. I am asking are you
8 familiar with the fact that the bank --

9 THE WITNESS: Translate please.

10 Q Bank creates and publishes every year an annual report on
11 the financial standing of the bank?

12 (Question was translated.)

13 A Yes, the annual report was distributed and put in the
14 news, in the --

15 INTERPRETER: Newspaper.

16 A In the newspaper.

17 Q And, are you aware that in 2003, for instance, we got an
18 exhibit, Exhibit 72, that already is in evidence, that is the
19 annual report for the bank for 2003, are you aware of whether
20 or not according to the 2003 annual report that the --

21 MR. COLES: Objection.

22 THE COURT: All right. Let's have a short sidebar.

23 (Sidebar.)

24

25

- Sidebar -

2903

1 THE COURT: Let's see if I understand, the witness
2 on direct testified about how he has Israeli customers and all
3 these Israelis that come to him. He is now going to be
4 impeached by the report showing the reference to Israel as an
5 occupying force or whatever the language was?

6 MR. TURNER: No, sir. What he testified to, was how
7 poorly from an economic standpoint the bank was doing.

8 THE COURT: Yes.

9 MR. TURNER: I was simply going to point out in
10 2003, according to the annual report, the bank actually made
11 \$2 billion.

12 THE COURT: What is wrong with that?

13 MR. COLES: This is a global number. He was only --

14 THE COURT: There is redirect.

15 MR. COLES: That is completely unfair to put in the
16 \$2 billion number.

17 THE COURT: It is already in, he will ask him that,
18 on redirect you will embarrass him, that is the bank's
19 worldwide operations, what was the number for the Palestinian
20 branches? He will say it was a negative number.

21 MR. COLES: I guess my objection would be a 403
22 objection, to put in what Mr. Turner wants to put in.

23 THE COURT: What is the answer?

24 MR. TURNER: The answer is \$2 billion and the
25 Palestinians, they lost two hundred thousand.

- Sidebar -

2904

1 MR. COLES: They lost money in the Palestinian
2 territories, there is no foundation.

3 THE COURT: It is already in.

4 MR. COLES: Or using it.

5 THE COURT: Can we ask and draw the relationship
6 because it shows things weren't so bad. I will exclude it
7 under Rule 404(b).

8 (Open Court.)

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Al-Omari - Cross - Turner

2905

1 BY MR. TURNER:

2 Q Mr. Al-Omari, would you on occasion, during the 2000 to
3 2004 timeframe, review the bank's annual reports?

4 A For me, no.

5 Q You did not?

6 A No, financial report, sometimes, if I have a look at it,
7 to see-- but I don't investigate the annual report. Not my job.

8 The thing I investigate are sheet balances for the
9 profit and our sheet balance for the branch. And our sheet
10 profit for the branch. If you ask me about this, yes, I
11 investigate it very well.

12 Q So, you are talking about the branch itself in Jenin as
13 opposed to the bank?

14 A The branch?

15 Q The branch in Jenin?

16 A Yeah.

17 Q So, you were up to speed on that, but not on how well the
18 bank was doing?

19 MR. COLES: Objection, Your Honor.

20 THE COURT: Sustained. You don't need to translate it.

21 Q You don't have to answer it.

22 Now, let's wrap this up real quick, as I understand,
23 during the period of time when you were doing the marketing
24 and going to see the customers and things like that.

25 A Yes, sir.

Kawas - Direct - Coles

2906

1 Q You were not aware of anything called the Saudi
2 Committee. In fact, you did not learn about the Saudi
3 Committee until you met these lawyers over here; is that right?

4 A At that time, about the period you are asked for me, when
5 I am-- when I am the credit facility manager in Jenin, I don't
6 know there is nothing named Saudi Committee in that period.

7 MR. TURNER: That is all I have.

8 THE COURT: Any redirect?

9 MR. COLES: No redirect, Your Honor.

10 THE COURT: You may step down, thank you very much.

11 THE WITNESS: Thank you, sir, thank you all. Thank
12 you.

13 (Witness excused.)

14 THE COURT: The defendant may call its next witness.

15 MR. COLES: The defendant calls George Kawas to the
16 stand.

17 GEORGE KAWAS, having been first duly sworn, took the stand and
18 testified as follows:

19 DIRECT EXAMINATION BY MR. COLES:

20 Q Good morning Mr. Kawas, how are you?

21 A Good morning, sir.

22 Q Now, you can pull the microphone close to your mouth.

23 A Okay.

24 Q You are actually going to try to testify in English
25 today, correct?

Kawas - Direct - Coles

2907

1 A Yes, sir.

2 Q English is not your first language?

3 A Not my first language. Arabic my native language.

4 Q What languages do you speak?

5 A I speak three languages, English, Arabic and Hebrew.

6 Q If you have problems understanding my question, or if you
7 want to give an answer in Arabic, we have the translators
8 right here who can help you with that.

9 A Thank you very much.

10 Q Are you employed now Mr. Kawas?

11 A No, I'm retired.

12 Q And, what do you do during your retirement?

13 A Now, I established a network with my son, I sell used
14 cars and spare parts for cars.

15 Q And, how long have you been doing that?

16 A One year and a half.

17 Q And, before you went into business with your son, what
18 was your job before you retired?

19 A I spent my-- 43 years in the banking sectors.

20 Q And, what banks did you work during those 43 years?

21 A I worked for 26 years in the Bank Leumi, it is an Israeli
22 bank. And 16 years in the Arab Bank.

23 Q And, where did you work for Arab Bank?

24 A Arab Bank in Bethlehem, all the time.

25 Q And, when did you retire from Arab Bank, Mr. Kawas?

Kawas - Direct - Coles

2908

1 A October 4, 2012.

2 Q And, where do you live now?

3 A I live in Bethlehem.

4 Q And have you lived there your whole life?

5 A Yes, all my life.

6 Q Most people haven't been to Bethlehem, it is a very
7 famous city.

8 A Yes, it is a very famous city.

9 Q Why is that?

10 A Because, we as Christians believe that Jesus Christ was
11 born in Bethlehem. And we have a big city, a big church that
12 all the tourists from all over the world come and visit.

13 Q Now, if you like, some of the other witnesses did this,
14 would mind just stepping down for two minutes and orienting us
15 on where Bethlehem is in the West Bank and its relationship to
16 other parts of the territories.

17 With the Judge's permission?

18 THE COURT: Yes, that is fine.

19 (Witness left the stand.)

20 A This map is--

21 Q You have to speak up and speak to the jury.

22 A This map is the middle east. This is the Mediterranean
23 Sea. This is state of Israel, the green is Palestine, this is
24 the Jordan River and the Dead Sea and here is Jordan.

25 Bethlehem is located here. It is very near to

Kawas - Direct - Coles

2909

1 Jerusalem about 10-kilometers, six miles almost. And my
2 branch is here in Bethlehem.

3 Q Thank you Mr. Kawas. You can return to the stand.

4 (Witness resumed the stand.)

5 Q Now, we have seen Bethlehem on the map, is it a large city?

6 A It is a large city. It includes three cities, Bethlehem,
7 Beit Jala and Beit Sahour. These three cities, old Bethlehem
8 district.

9 Q And about how many people live in the Bethlehem district?

10 A Almost 35 to 40 thousand.

11 Q Now, can you tell us about your family Mr. Kawas?

12 A I have two daughters and one son, and my eldest daughter
13 is a teacher, my son is a car dealer and merchant of spare
14 parts, and he is married and have a son. My youngest girl is
15 married to a person who got Israeli citizenship in Israel, and
16 my father was a policeman and he served for government, the
17 Egyptians and British and the Jordanian and the Israelis.

18 Q He was a policeman under all four of those government?

19 A Yes, at that time, our city was under the occupation of
20 these governments. My mother --

21 Q Your family has been in Bethlehem for a long time?

22 A Yeah, yeah.

23 Q Did you attend high school or secondary school in
24 Bethlehem?

25 A Yes, I attended Terra Santa school, it is-- was founded

Kawas - Direct - Coles

2910

1 100 years ago by the Franciscan Brothers, which is --

2 INTERPRETER: Which is affiliated with or follows.

3 A Which follows Catholic patriarch and I graduated from
4 there in 1970.

5 Q And, what did you do after you graduated from Terra Santa?

6 A I enrolled to the university in Jordan, but for my bad
7 luck, I cannot continue because of the war in 1970.

8 Q That was in 1970?

9 A Yes.

10 Q So, did you come back to Bethlehem?

11 A Yes, I came back to Bethlehem.

12 Q And what did you do when you came back to Bethlehem?

13 A One of my friends who was working in Bank Leumi, told me
14 that Bank Leumi needs employees and they want employees from
15 Terra Santa College because of their good language and good
16 handwriting.

17 So, he engaged me to make an application for the
18 bank, I met with them and I got the job.

19 Q It is good you had good handwriting.

20 Can you tell the jury a little bit about what Bank
21 Leumi is?

22 A Bank Leumi was established in 1902, it was called the
23 Anglo Palestine bank. It changed its name at 1948, 1950, to
24 Bank Leumi. Leumi means in Hebrew, national. The national
25 bank of Israel.

Kawas - Direct - Coles

2911

1 Q So, when exactly did you start working at Bank Leumi?

2 A I start working at Bank Leumi, September 13th, 1970, in
3 Hebron branch as a teller.

4 Q You told us that you worked there for 26 years overall?

5 A Yes. I worked at six months at the Hebron branch and
6 they transferred me to East Jerusalem branch, I worked there
7 for 12 years.

8 Q What was the name of that branch in East Jerusalem?

9 A East Jerusalem branch. Salahuddin.

10 Q And, did you have a job with Bank Leumi after that?

11 A Yeah, I continued-- they transferred me to be the manager
12 of Beit Sahour branch. I was promoted.

13 Q That is near Bethlehem?

14 A Near Bethlehem, 2-kilometers near Bethlehem.

15 Q Was that a promotion for you to be a branch manager?

16 A Yes, it is a promotion.

17 Q How long were you the manager of the Beit Sahour branch,
18 I hope I pronounce that correctly?

19 A About two years.

20 Q And, what happened to the Beit Sahour branch?

21 A The management decided to close the branch because the
22 collapse of the stock market. They decided to close all the
23 small branches in Israel.

24 Q Okay.

25 A One of them was Beit Sahour branch.

Kawas - Direct - Coles

2912

1 Q And, after working at Bank Leumi, Beit Sahour branch,
2 where did you work next?

3 A They transferred me to Shimron branch in Nablus, it is
4 also a small branch with five or six employees. I worked
5 there for four or five years.

6 Q Were you a branch manager?

7 A Yeah, I was the branch manager.

8 Q And, did there come a time when the Shimron branch of
9 Bank Leumi closed?

10 A Yeah, they decided to close it after the four years, and
11 they transferred me to be the manager of Nablus branch, the
12 biggest one.

13 Q So you became the manager of the Nablus branch?

14 A Yes.

15 Q Was that another promotion?

16 A Yes, sir.

17 Q Now, how long did you remain at the Nablus branch?

18 A I stayed in Nablus until 1989 and we decided to-- the
19 management decided to close the branch after a bad incident.

20 Q After a bad incident?

21 A Yes.

22 Q Can you explain --

23 MR. ELSNER: Objection, Your Honor.

24 THE COURT: Sidebar, please.

25 (Sidebar.)

- Sidebar -

2913

1 THE COURT: What happened?

2 MR. COLES: The branch was attacked and burned.

3 THE COURT: By whom?

4 MR. COLES: I don't know.

5 THE COURT: You can't keep doing this. It is
6 really --

7 MR. COLES: It does seem to me that to the extent
8 they experienced this firsthand, it has real relevance to the
9 allegations that the plaintiffs are making that these people
10 sponsored acts of international terrorism.

11 THE COURT: Like I said before, you know, there are
12 various factions that commit terrorists acts upon each other.
13 If you can identify this as a Hamas attack, I would say the
14 403 balancing, goes in your favor. But as a general
15 terrorists attack, it doesn't necessarily deter anyone from
16 anything.

17 MR. COLES: My only response is, you don't-- they
18 don't like terrorists at all, whether PIJ, Hamas.

19 THE COURT: You got that in spades from the last
20 witness. If you can find another way to get this from this
21 witness. I think this point is made to the jury and all your
22 witnesses without going into additional terror attacks. So I
23 will--

24 MR. ELSNER: I will say, Your Honor, an attack in
25 1989, on an Israeli bank, has zero relevance to this case and

- Sidebar -

2914

1 just for the record, what we have to establish as a matter of
2 law is that the bank knowingly provided support, we are not
3 suggesting that Mr. Kawas has any specific intent to support
4 Hamas. So it really is far afield.

5 THE COURT: I know, let's call it like it is. The
6 bank will put up a lot of witnesses and impress the jury that
7 these are not people who would support terrorism. I
8 understand that as strategy, I will allow that to some degree.

9 But when we start getting into the specifics of the
10 attacks, then the 403 equation gets --

11 MR. COLES: I do want to make a point. I don't
12 think that was a proper statement of the law. I think under
13 2333, you have to show some malicious intent. And but that is
14 a discussion for another day. Most likely.

15 THE COURT: We will fight over the jury.

16 MR. ELSNER: Your Honor, previously excluded
17 references to individual's religion and I want to make sure.

18 THE COURT: I was appalled that that came out. I
19 decided not to attach any attention to it. This witness it
20 seems to me was clearly prepared to volunteer in every
21 possible way, that he is a Christian. I think the best I can
22 do with that is not say anything to the jury about it. But
23 I'm instructing the defendants to please not have their
24 witnesses disclose their religion. It is irrelevant.

25 (Open Court.)

Kawas - Direct - Coles

2915

1 BY MR. COLES:

2 Q After the Nablus branch of the Bank Leumi closed, Mr.
3 Kawas, what did you do next?

4 A After Nablus branch, they sent me to Jerusalem branch
5 helping the people of Nablus or to close their account or
6 transfer the accounts to the East Jerusalem branch in Jerusalem.

7 Q And, did you continue working for Bank Leumi after that?

8 A Yes, after one year, they sent me to work as a branch
9 manager in Hebron, so I stayed there for six years until 1996.

10 Q So, you were branch manager for Bank Leumi in Hebron
11 between 1990 and 1996?

12 A Yes, sir.

13 Q What did you do next?

14 A 1994, it was Oslo Accord, so most of the Arab Banks came
15 to the West Bank, and it was an opportunity for me to go to
16 a-- to an Arabic bank. So I chose the Arab Bank.

17 Q What was it about the Oslo Accord that caused you to want
18 to go to Arab Bank.

19 A I don't understand.

20 Q What was it about the Oslo Accord that was important to
21 you in deciding to go to Arab Bank?

22 A Yeah, because which were-- to make peace and everything
23 would be okay, and the economy will be very good. So, I had
24 decided to go to Arab Bank.

25 Q You worked for 26 years at Bank Leumi, are you still in

Kawas - Direct - Coles

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1 contact with the people you worked with?

2 A I still in contact with them. I have all my colleagues,
3 they are talking with me. Bank Leumi till now, from the day
4 that I left them from 17 years, they sent me three gifts per
5 year. One, at the Passover; the second at the head of the
6 year, Rosh Hashanah; the third one, my birthday.

7 Q When you were recruited to Arab Bank in 1997, what
8 position were you offered?

9 A Branch manager, Bethlehem branch manager.

10 Q How many employees worked at the branch at that time?

11 A At 1997, it was 42, 42 employees.

12 Q And, can you tell us what your responsibilities were as
13 branch manager of the Bethlehem branch?

14 A At that time in 1997, I was responsible for everything in
15 the branch.

16 Q And, what did that include?

17 A It include everything. The deposit department, foreign
18 currency department, compliance department, everything. All
19 the departments were reporting to me.

20 Q And, to whom did you report?

21 A At that time, I was reporting to the manager, Mr. Shukry
22 Bishara.

23 Q He was at the time, the top man in the Palestinian
24 territories?

25 A Yes, sir.

Kawas - Direct - Coles

2917

1 Q I'm going to put a picture up on the screen, maybe just
2 for the witness, although we shared it with the plaintiffs
3 previously.

4 Do you recognize that picture, Mr. Kawas?

5 A Yes. Yes, sir. This is my branch.

6 Q Were you present when the picture was taken?

7 A Yes, sir, I was.

8 Q When was the picture taken?

9 A January 2014.

10 Q And is this essentially what the outside of the branch
11 looked like during the period of time that you were the branch
12 manager?

13 A Yes, sir, it was.

14 MR. COLES: I would like to move this into evidence
15 and display it to the jury.

16 THE COURT: Any objection?

17 MR. TURNER: No.

18 MR. COLES: DX1625.

19 THE COURT: Received.

20 (So marked.)

21 Q Can you explain to the jury what the picture is?

22 A This is branch from-- this is the picture of the
23 Bethlehem branch.

24 Q This is what the branch looked like in the 2000, 2004
25 timeframe?

Kawas - Direct - Coles

2918

1 A Yes, sir.

2 Q What kind of customers did you have in the Bethlehem
3 branch while you were the branch manager? What kind of
4 customers?

5 A I have-- in Bethlehem most of them are Christian, more of
6 my clients are Christian in Bethlehem. The institutes and the
7 hospital, and the universities, there are convents, schools,
8 most of them are the-- they depend on the tourist section.
9 Also the hotels and the souvenir shops. These are my customers.

10 Q You testified that some of the bank's customers in
11 Bethlehem were charities; is that right?

12 A Yes.

13 Q Can you generally describe the role of charities during
14 the second Intifada, the period of time you were branch
15 manager of the Bethlehem branch?

16 MR. ELSNER: Objection.

17 THE COURT: Overruled.

18 A The charities in Bethlehem were helping the people run
19 schools, run hospitals, run medical centers. And they help
20 the poor people and poor students by paying the fees of the
21 school and helping them-- because there was no, no work at
22 that time. It was closure and bad situation. The economy
23 went to hell, and so, the charities, helped the people to
24 survive.

25 (Transcript continues on next page.)

Kawas - direct - Coles

2919

1 (CONTINUING)

2 Q Okay. You mentioned there were branch closure of the
3 Bethlehem branch during the second intifada?

4 A Yes, it was closure, it was, it was curfew and sometimes
5 we cannot reach the branch to open it. Sometimes the police
6 can't reach. I have to go to collect them by my own car to
7 collect the police and sometimes three or four days we cannot
8 open the branch.

9 Q Okay. I'd like to move to a slightly new subject,
10 Mr. Kawas. Are you familiar with the banking term a counter
11 wire transfer?

12 A Yes, sir.

13 Q And can you explain what a counter wire transfer is?

14 A Counter wire transfer was any person can enter the branch
15 and make a transfer without having an account. Can bring
16 money and make a transfer to another place in the world.

17 Q Okay. And did the bank have practices regarding how it
18 handled counter wire transfers?

19 MR. ELSNER: Objection.

20 I had an objection, Your Honor, I'm sorry.

21 THE COURT: I'm sorry the objection is overruled,
22 it's a fine question.

23 Q Did the bank have a practice as to how it handled counter
24 wire transfers?

25 A Yeah.

Kawas - direct - Coles

2920

1 Q And what was the practice?

2 MR. ELSNER: Objection.

3 A Everything --

4 THE COURT: That one, I heard. You need to object
5 louder. Your voice is very soft.

6 MR. ELSNER: I'll be louder.

7 THE COURT: I'm going to take this answer, but I may
8 strike it depending on what he says.

9 Go ahead.

10 MR. COLES: Okay.

11 A Any person want to make a transfer, we check his ID card
12 and take his name and ask him about the purpose of the
13 transfer and do a check if his name is located on the
14 blacklist. And if it everything okay, we will do the
15 transfer.

16 We will check also, the beneficiary's name, also if
17 it is on the blacklist, and if it is okay, we will do the
18 transfer.

19 THE COURT: All right. I am striking the answer.

20 The jury is to disregard that answer.

21 MR. COLES: Okay.

22 THE COURT: Do you need a side-bar?

23 MR. COLES: Sure.

24 (Side-bar conference held on the record out of the
25 hearing of the jury.)

Side-Bar

2921

1

2

(Side-bar.)

3

4

THE COURT: How does this not run squarely into the preclusion order?

5

6

7

8

MR. COLES: I'm actually trying to find the line that I thought we were working on last week. If I don't apply things to accounts, talk generally about what the practice was.

9

10

11

THE COURT: How can they cross --

MR. COLES: And then you would give the instruction that you gave last week.

12

13

14

15

THE COURT: No, no, that was general that might by inference have encompassed Palestine. Then I could give an instruction saying this does not apply anywhere but where the witness is testifying.

16

17

18

19

20

He is in Palestine. So, he is only giving testimony as to Palestine and when he says we checked the blacklist, we did this and we did that, the plaintiffs have absolutely no way to delve into that and find out if that is true because you haven't produced the documents.

21

22

23

24

25

MR. COLES: All right. These were actually, I took these questions from the transcript that we asked for Mr. Harani where he was able to say generally there was a blacklist in place and at the time we had the discussion where I said I would not ask whether or not the specific accounts

Side-Bar

2922

1 for records to ask were filtered against the blacklist.

2 THE COURT: The inference is unavoidable with this
3 witness in his position that blacklists were checked at this
4 branch and came up clean and the plaintiffs can't examine into
5 that.

6 MR. COLES: But they have the benefit of the
7 instruction you're going to give the jury at the end; that the
8 jury may infer that because we didn't produce documents, they
9 can make certain conclusions.

10 THE COURT: Yes, that is not enough. I mean,
11 because you still have them up against the wall.

12 There were two aspects to the sanctions; one were
13 the adverse inference instructions and the second were
14 preclusions, areas where you can't go. This is one of them,
15 so don't go there.

16 MR. ELSNER: Your Honor, I'd ask that this
17 witnesses's testimony be stricken unless he has something
18 relevant to say.

19 Twice he has violated Your Honor's orders. Once
20 with respect to eliciting his religion, second with respect to
21 direct contravention of the preclusion order and Your Honor's
22 order and they clearly did not instruct this witness that he
23 was not to be permitted to go in that direction.

24 And there is nothing else relevant that he's
25 actually offered at all.

Side-Bar

2923

1 THE COURT: I haven't heard anything yet. Let's see
2 if we get anywhere. I may strike the witness's entire
3 testimony.

4 MR. COLES: The testimony of the second intifada
5 with the Bethlehem branch and the effect on the Bethlehem
6 branch is directly relevant to this case.

7 THE COURT: Let's argue about it, if we get there.

8 But let me tell you, I don't want to do this with
9 any more of your witnesses. You assured me, Mr. Coles, that
10 we would not have to go through every witness in order to
11 determine whether they're giving precluded testimony. You
12 told me we will just give a proffer so we have our record.
13 This witness is really doing things that he's not supposed to
14 do.

15 MR. COLES: Okay. I've tried very hard to look at
16 the transcript. I mean, and if you look at the transcript
17 yourself, Your Honor, you will see that every witness question
18 has got a good faith -- I'm trying very hard.

19 THE COURT: I am not accusing you of bad faith, but
20 I think at this late stage we know where the line is and your
21 witness have to be directed not to cross it, okay?

22 I don't want to hear about blacklist checking in the
23 Palestinian territories. I don't want to hear about copying
24 photo IDs because we are all wondering where is
25 Sheikh Yassin's photo ID. There are all these questions that

Kawas - direct - Coles

2924

1 the plaintiffs can't go into.

2 You have to have your witnesses properly prepared
3 not to give precluded testimony. If there was ambiguity
4 before -- I am saying I am accepting what you are saying in
5 good faith -- there is no ambiguity now. So, don't do it
6 please.

7 MR. COLES: Okay.

8 (Side-bar end.)

9

10 (In open court.)

11 BY MR. COLES:

12 Q What was the effect of the second intifada on the
13 employees of the branch you ran for Arab Bank in Bethlehem?

14 A The intifada was, second intifada, it was very big
15 mistake, but it was disaster. It was bad for both people, for
16 the Israelis an the Palestinians. The economy was down and no
17 work, hotels are closed, laborers cannot go to work, no
18 transportation. It was very, very bad, bad for the employees
19 and for the bank itself.

20 Q Okay. And was it bad for the bank throughout the
21 Palestinian territories?

22 A Yes, it was.

23 Q Okay.

24 MR. COLES: Thank you today for coming and
25 testifying, Mr. Kawas.

Side-Bar

2925

1 THE COURT: All right.

2 Cross-examination?

3 MR. ELSNER: Your Honor, I renew my motion for mine.

4 THE COURT: I am going deny the motion.

5 CROSS EXAMINATION

6 BY MR. ELSNER:

7 Q Mr. Kawas, are you aware that in Arab Bank's 2000 annual
8 report the Chairman of the Bank wrote --

9 MR. COLES: Objection, Your Honor.

10 THE COURT: Stop.

11 Didn't we have this discussion at side-bar with the
12 last witness?

13 MR. ELSNER: You did but I wasn't there and I
14 understood it, I think, I...

15 THE COURT: All right, let's have another side-bar.

16 (Side-bar conference held on the record out of the
17 hearing of the jury.)

18

19 (Side-bar.)

20 MR. ELSNER: Can I clarify one point first?

21 I don't intend to ask him about the economic
22 condition in the annual report.

23 THE COURT: What are you asking him?

24 MR. ELSNER: I am asking him about this chairman's
25 statement about the -- referring to Israel as the occupying

Kawas - cross - Elsner

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1 enemy.

2 THE COURT: Right. I think that's okay.

3 MR. COLES: It's beyond the scope of anything.

4 MR. ELSNER: No, it's not.

5 THE COURT: It goes to credibility. He testified
6 about this.

7 First of all, he volunteered at least three times
8 that he is a Christian. Then he testified about his close
9 relationship with Israelis and working for Israeli banks.

10 I think to counter that it is fair game for the
11 plaintiffs to say well, did you know the bank you were working
12 for had this to say about Israel. I think that is fair cross.

13 (Side-bar end.)

14

15 (In open court.)

16 BY MR. ELSNER:

17 Q Mr. Kawas, are you aware that Arab Bank in its 2000
18 annual report, that the chairman of Arab Bank wrote the
19 negative effects of the difficult political conditions with
20 our brothers in Palestine suffer from have worsened and the
21 opportunities to achieve a just and true peace have diminished
22 before the occupying enemy's enduring obstinacy and arrogance.

23 Are you aware that that was written in Arab Bank's
24 annual report?

25 A Have it translate.

Kawas - cross - Elsner

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1 (Interpreter interprets.)

2 A First of all, I don't see this report.

3 Second, the annual report for my branch, I was
4 received alone. I don't receive this annual report, but about
5 the, what's written here, I think, I think it's the real, the
6 real enemy is the occupation.

7 Q My question, sir, is are you aware that Arab Bank in its
8 annual report referred to Israel as the occupying enemy?

9 MR. INGERMAN: Objection.

10 THE COURT: Sustained.

11 I think he said he had not read this report.

12 Q What about the 2003 report? Are you aware of whether
13 Arab Bank in its 2003 report referred to the Government of
14 Israel as the occupying enemy?

15 (Interpreter interprets.)

16 A I didn't see that report. Another time I think I see the
17 true picture is the enemy, the Israeli is not our enemy.

18 Q We calculated the number of Saudi Committee transactions
19 to martyrs, prisoners and people injured in the intifada
20 through the Bethlehem branch.

21 Were you aware that there were \$2.3 million --

22 MR. INGERMAN: Objection, Your Honor.

23 Q -- paid to beneficiaries in support of the intifada
24 through your branch from 2000 to 2004?

25 THE COURT: Overruled.

Side-Bar

2928

1 (Interpreter interprets.)

2 A No, I don't remember that.

3 Q Were you aware, sir, that 94 percent of those transfers
4 equaling 2.1 million USD were paid in cash to nonaccount
5 holders in support of the intifada through your branch in
6 Bethlehem between 2000 and 2004?

7 MR. INGERMAN: Objection, Your Honor. Side-bar.

8 THE COURT: Side-bar, please.

9 (Side-bar conference held on the record out of the
10 hearing of the jury.)

11

12 (Side-bar.)

13 MR. COLES: The basis for this objection is I wanted
14 to ask him about this and he objected saying that it's
15 inappropriate for he to inquire about it.

16 Now, he's inquiring about exactly the same thing.

17 THE COURT: Actually, I didn't know you were going
18 to ask him about these things. I understand the
19 cross-examination is meant for impeachment purposes as it goes
20 to his credibility as branch manager to not know that these
21 things are going on.

22 Having opened that door, if you want to bring out
23 more as to what he actually knew or why he didn't know these
24 things, you certainly can do that.

25 MR. ELSNER: But the specific transactions through

Side-Bar

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1 the branch.

2 MR. COLES: But then he is going to open the door to
3 the fact they had a practice as to how they treated these,
4 including applying them against blacklist.

5 You can't shut me down, I don't believe, on direct
6 and allow him to explore this and then not allow me to
7 actually talk about the practice of counter wire transfers
8 because it will leave a completely distorted impression to the
9 jury.

10 MR. ELSNER: It does not, Your Honor. These are the
11 actual transactions through the branch. They are actually
12 pieces of paper that have been produced. It's the only thing
13 they've produced.

14 THE COURT: But he might have a very good
15 explanation about why he doesn't know the answer to these
16 things. And how can he prevented from giving this
17 explanation?

18 MR. OSEN: Well, we won't object to him saying I
19 know or I don't know and why I don't know.

20 Our objection would be on preclusion grounds as to
21 the questions of application of blacklists, PMA law,
22 et cetera, et cetera. So, his awareness or lack thereof is
23 fair game on redirect. That, we don't object to.

24 MR. COLES: If they can put in the transfers as a
25 general matter, then as a general matter I should be able to

Kawas - cross - Elsner

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1 elicit testimony that the transfers were matched against the
2 blacklist.

3 THE COURT: All right, I am going sustain the
4 objection, so we don't have to get into this.

5 The plaintiffs have the facts and can argue them
6 later.

7 (Side-bar end.)

8

9 (In open court.)

10 BY MR. ELSNER:

11 Q Mr. Kawas, do you have any personal knowledge about
12 transfers through your branch in Bethlehem made in support of
13 the intifada?

14 MR. COLES: Objection to form.

15 THE COURT: Overruled.

16 (Interpreter interprets.)

17 A No, no, ever.

18 Q Mr. Kawas, do you have any information to provide about
19 whether or not Arab Bank maintained accounts at your Bethlehem
20 branch for --

21 MR. ELSNER: Let me strike the question.

22 Q Do you have any information as to whether or not Arab
23 Bank maintained accounts for Sheikh Yassin, Ismail Haniyah and
24 other Hamas leaders?

25 A No, I have not.

Proceedings

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1 Q Do you have any information about whether Arab Bank
2 maintained accounts for Zakats that we've alleged are fronts
3 for Hamas at your Bethlehem branch between 2000 and 2004?

4 A In Bethlehem branch, I assure you, we have no Zakat
5 account, but I remember in Bank Rumir in Hebron --

6 MR. ELSNER: Objection; move to strike.

7 THE COURT: Sustained.

8 Sir, you have to stop. You need to confine yourself
9 to just his question.

10 Q My question is do you have any information as to whether
11 or not Arab Bank -- well.

12 MR. ELSNER: I'm going to strike that.

13 I'm going to pass the witness, Your Honor.

14 THE COURT: Okay.

15 Do you have anything further?

16 MR. COLES: No redirect, Your Honor.

17 THE COURT: Okay, you may step down, thank you very
18 much.

19 (Witness excused.)

20 THE COURT: I'll ask again. You don't have a
21 witness that has five minutes on direct and three on cross;
22 right?

23 MR. STEPHENS: Not today, Your Honor.

24 THE COURT: All right.

25 We will talk our lunch break, ladies and gentlemen,

Proceedings

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1 we will come back here at 1:45. Don't talk about the case
2 please, with anyone. Have a good lunch, see you in an hour
3 and ten minutes.

4 THE COURTROOM DEPUTY: All rise.

5 (Jury exits.)

6 (In open court; outside the presence of the jury.)

7 THE COURT: All right, 1:45.

8 MR. COLES: Your Honor?

9 THE COURT: Have a seat.

10 MR. COLES: Just to avoid side-bars, I thought maybe
11 five minutes before the jury comes back we can have a
12 conversation here and let me go through the outline. I want
13 to make sure -- I think I've actually figured out the right
14 line and it's in the outline, but I want to make sure that
15 we're all on the same page.

16 THE COURT: Okay.

17 MR. COLES: It's a complicated line to identify.

18 THE COURT: I completely agree.

19 So, you don't want to do that now?

20 MR. COLES: No, I've got to pull out the
21 information.

22 THE COURT: So, we will come back five minutes
23 early.

24 MR. OSEN: I'm sorry, Your Honor, one other
25 housekeeping.

Proceedings

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1 THE COURT: That's okay.

2 MR. OSEN: We have notice of the next two witnesses,
3 but not beyond that and the schedule has changed over the last
4 72 hours a couple of times.

5 So, they're going rather quickly, relatively
6 speaking, and we don't know what's coming after the next two,
7 so it's an issue of preparation, obviously, for the remainder
8 of today and tomorrow.

9 THE COURT: What have we got after the two that
10 you've noticed for today?

11 Everyone can sit, you don't all have to stand.

12 MR. STEPHENS: We'll discuss it at lunch and then
13 we'll give them that.

14 THE COURT: Let's come back at 1:35.

15
16 (Continued on following page with AFTERNOON
17 SESSION.)

18

19

20

21

22

23

24

25

1 A F T E R N O O N S E S S I O N

2 (The following occurred in the absence of the jury.)

3 THE COURT: Be seated, please.

4 What's going on?

5 MR. COLES: Your Honor, taking into consideration
6 your limitations on the evidence, we actually are going to
7 change our witnesses around. We don't see that the
8 Palestinian witnesses that we had planned to put on today are
9 going to be anything but cumulative.

10 We had hoped that DX 194 was a piece of evidence
11 that we could put in. We thought that fell within Judge
12 Gershon's order, but Your Honor ruled differently. Mr. Kawwas
13 was not allowed to talk about the counter-wire transfers.

14 I don't think the other Palestinian witnesses we
15 have are going to move the ball forward for you or for the
16 jury. It is our proposal, and we understand this creates
17 something of a time issue for the plaintiffs, which we are
18 happy to address, is to move to Manny Caravanos, who is the
19 operation manager in the New York branch, and then to our
20 expert, Anne Vitale. We would just skip the Palestinian
21 witnesses that we had scheduled because I don't see any value
22 in presenting them to the jury.

23 THE COURT: Okay. First of all, I just got a letter
24 that you haven't seen yet from plaintiffs' counsel moving to
25 exclude Vitale. I only glanced at it but the matter seems to

1 be that since there is testimony that was restricted to
2 responding to a certain area that Judge Gershon anticipated
3 plaintiffs would present, I think it has to do with automated
4 transactions, and since the plaintiffs did not present
5 anything on that area, the plaintiffs say there is no reason
6 now for Vitale.

7 MR. COLES: I have not looked. I apologize. I just
8 haven't looked at that letter.

9 THE COURT: There is no way you could. It came in
10 literally five minutes ago and you are here with us.

11 MR. COLES: Okay.

12 THE COURT: Obviously, I am not going to rule on
13 that until you have looked at that letter.

14 I can anticipate where this change in plans leaves
15 plaintiff.

16 You can't do Caravanos today?

17 MR. TURNER: None of these people, Your Honor, were
18 on the list for today. In fact, some of them weren't even on
19 the list that we had for tomorrow.

20 MR. COLES: We are actually expecting, Your Honor,
21 if we do away with the Palestinian witnesses, that we will
22 close after one more day of testimony.

23 THE COURT: So no one is saying it, but the obvious
24 solution is that we adjourn today and come back tomorrow.

25 MR. TURNER: I think we can -- I think we can

1 effectively use what time we have to address the Vitale issue
2 and then we would like to address the remainder of what the
3 witness list is going to look like so we don't end up in this
4 position.

5 THE COURT: I don't know. I am gathering from what
6 you say, Mr. Coles, that there is nothing beyond Caravanos and
7 Vitale; is that right?

8 MR. COLES: Vitale, as Your Honor knows, is the
9 expert. Caravanos is the operations director. We have.

10 Fazwah Shukri but I am not sure that we need to put
11 him on. He's a Jordanian operations person from the bank.

12 And then we also have a -- which I think we can
13 resolve with the plaintiffs, an issue about a Rule 1006
14 witness to testify about how many times certain references
15 appeared in Levitt's expert report and in Spitzen's expert
16 report.

17 We also think, Your Honor, as Your Honor wrote a
18 decision about a week ago raising the question as to whether
19 or not we needed Mr. Benthall in light of Beverly
20 Milton-Edwards's testimony. I think Your Honor was right to
21 raise that. I think at this point he would be largely
22 cumulative of Milton-Edwards.

23 THE COURT: What you are saying is, you have at
24 least two and potentially not more than three remaining
25 witnesses, right?

1 MR. COLES: Correct, Your Honor.

2 MR. INGERMAN: No, no. Kevin is four.

3 MR. COLES: Yes. Assuming we can't rule out this
4 Rule 1006 issue, that would be; but he would be a ten-minute
5 witness.

6 THE COURT: Right.

7 MR. COLES: He would be the witness who you were
8 looking for when we broke for lunch, one that would be two
9 minutes on direct and two on cross.

10 THE COURT: Okay. I am going to send the jury home.
11 That's clear.

12 Then the question is, is there anything to be
13 determined this afternoon. I am almost inclined -- we have a
14 short day tomorrow because we have to stop at 3:00 o'clock.

15 MR. WERBNER: That's Wednesday, I thought.

16 THE COURT: Tomorrow, Tuesday.

17 MR. WERBNER: Okay.

18 THE COURT: I don't want to put the defendant under
19 pressure responding to the letter I just got now, especially
20 since, frankly, I think this is a letter that could have been
21 written some time prior to the close of plaintiffs' case, when
22 the plaintiffs knew they weren't putting on this evidence.

23 MR. OSEN: Actually, Your Honor, we didn't know that
24 Ms. Vitale would suddenly be called today. That's why we
25 filed it.

1 THE COURT: I understand.

2 You set it up to file it the day before she
3 testified.

4 MR. OSEN: No, Your Honor. The issue with
5 Ms. Vitale is also interlinked with Mr. Dabbour and the
6 testimony and the question of what would be allowed by the
7 defendant's witnesses concerning their KYC and other
8 materials.

9 So, for example, if I may, Your Honor, the defendant
10 was allowed to present evidence as to what kind of customer
11 files they had, what they collected, in terms of photo
12 identification and so on, things like that, which therefore
13 obviates the need for expert to testify as to what the banking
14 standard is for collecting materials in the abstract.

15 THE COURT: All right. We will send the jury home
16 now. I will get a responsive letter to the Vitale motion from
17 defendant by say 7:00 o'clock. I will rule on that when I
18 take the bench tomorrow morning.

19 Defendant will complete its case, sounds like,
20 tomorrow?

21 MR. COLES: That's our expectation, Your Honor.

22 THE COURT: Any rebuttal case for the plaintiffs?

23 MR. OSEN: Just one point before we get to that
24 question, Your Honor.

25 THE COURT: Yes?

1 MR. OSEN: I didn't hear Mr. Scholtz, who was on
2 their witness list. Is he being withdrawn?

3 MR. COLES: The only remaining witnesses are the
4 ones I just identified for the Court.

5 THE COURT: That's between two and four witnesses.

6 MR. WERBNER: You identified three.

7 MR. COLES: I identified Mr. Caravanos, Mr. Fazwah
8 Shukri --

9 THE COURT: Let me stop you.

10 Mr. Werbner, the record is clear. You will talk
11 afterwards. Get the reporter to read it back to you.

12 He's got at least two. If you resolve the 1006
13 witness, he won't need to call anyone. If he does, that's a
14 ten-minute witness and maybe one more who he hasn't decided on
15 yet.

16 MR. OSEN: I'm sorry, Your Honor.

17 The issue with the third one, just so we are clear,
18 he was offered as a 30(b)(6) witness in deposition. The
19 question is whether he possessed any personal knowledge.

20 THE COURT: I will find out when he testifies.

21 MR. COLES: I understand that they have a standing
22 objection to that witness.

23 THE COURT: Okay.

24 MR. COLES: I know that.

25 THE COURT: Okay. I will rule on Vitale tomorrow

1 morning.

2 Defendant, of course, will be ready to close. My
3 question to the plaintiffs, any rebuttal?

4 MR. TURNER: We do think we have some rebuttal but
5 we really haven't had a chance to sit down and look at
6 calendars. We had no idea we were going to get that far this
7 week. So we do anticipate some very brief rebuttal.

8 THE COURT: Can you have it ready tomorrow?

9 MR. TURNER: I doubt it. One witness requires
10 travel. We can certainly try though.

11 THE COURT: The problem is, if I am having the jury
12 come in for a short day tomorrow -- I suppose we could do our
13 charging conference the rest of Wednesday, if we finish
14 rebuttal on Wednesday.

15 Try to be ready tomorrow. If you can't, then we
16 will carry-over into Wednesday.

17 MR. COLES: If there are going to be rebuttal
18 witnesses, can we get some notice of those?

19 MR. TURNER: Absolutely. We will tell them.

20 THE COURT: Yes.

21 MR. WERBNER: And the order?

22 MR. COLES: Sure.

23 MR. OSEN: Just so we are clear, Mr. Dabbour is also
24 not coming?

25 THE COURT: Don't keep asking him if all these

1 people are coming. They have dropped these people. He's told
2 you who is going to come. We have between two and four. I
3 will recite the specifics again. That's all there are. There
4 ain't no more.

5 Okay. Let's dismiss the jury until tomorrow.

6 (Jury present.)

7 THE COURT: All right. Be seated, please.

8 Ladies and gentlemen, the lawyers have been working
9 very hard to streamline the case for you and have made
10 substantial progress in that regard. I can tell you, as a
11 result of those efforts, we are going to finish the evidence
12 in the case this week, maybe even earlier than the end of the
13 week. That's entirely possible.

14 What it means for today, though, because we have
15 rearranged who has to be where when is we have no more
16 evidence for you today. So we are going to send you -- yes, I
17 know you are all very disappointed. I can see that. I will
18 send you home with the usual admonitions of not to talk to
19 anyone about the case or do research. You know all that. No
20 Internet, nothing about the case. Stay away from newspapers.

21 See you tomorrow at 9:30 and we will work our way
22 towards the end of the case.

23 (The following occurred in the absence of the jury.)

24 THE COURT: All right. I will see you all at 9:30
25 tomorrow.

1 MR. COLES: Are the lawyers ever that happy in your
2 courtroom, Your Honor?

3 THE COURT: I will tell you, this is an usually
4 collegial and happy jury. I don't know what we did right.

5 (Recess taken until 9:30, September 16, 2014.)
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